

BILL ANALYSIS

H.B. 2
By: Cavazos
Economic Development
6-10-91
Enrolled

BACKGROUND

The \$27 billion-a-year insurance industry in Texas is experiencing critical problems. Homeowners, motorists, and families needing medical protection have seen their rates rise, while coverage and accessibility decrease. Warnings issued by a grand jury investigation and by the state auditor's office have stated that \$3 billion of all premiums were "at risk" because of the weak financial condition of many insurers. The lack of comprehensive regulation and enforcement is often cited as the reason for fraud and insolvency in the insurance industry.

The responsibility for regulating the insurance industry belongs to individual states; no comprehensive federal regulatory system exists. In Texas, the State Board of Insurance (board) currently is responsible for insurance regulation, setting rates for automobile, property, title, and workers' compensation insurance; however, insurance policies held by Lloyds or county mutual subsidiaries are not regulated by the board. The board does not set rates for life, health, or accident insurance but does approve policy forms.

PURPOSE

As proposed, H.B. 2 provides for the regulation of the insurance industry by the State Board of Insurance, the Texas Department of Insurance, and the Commissioner of the Department of Insurance. Provides for the creation of the Office of Public Insurance Counsel to represent consumers. Provides for punishment for certain criminal offenses relating to the business of insurance, and creates certain offenses. Provides for motor vehicle financial responsibility.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is granted to the State Board of Insurance under the following sections:

SECTION 1.02, Article 1.10C, Subsection (c)
SECTION 2.01, Article 5.101, Section 3, Subsections (g) & (j);
SECTION 2.07, Article 5.07-1, Subsection (b);
SECTION 3.02, Article 5.75-1, Subsection (n);
SECTION 3.03, Article 21.07-7, Section 3, Subsections (j) & (k), and Section 11;
SECTION 5.02, Article 21.49-2B, Section 12
Article 21.49-2C, Subsection (g), and
Article 21.11, Section 1(f);
SECTION 7.02, Article 2.02, Subsection (b), and
Article 2.20, Subsection (d);
SECTION 7.05, Article 3.02, Section 2A(a);
SECTION 11.03, Article 21.56, Subsection (d);
SECTION 11.11, Article 21.28-A, Section 1;
SECTION 11.15, Article 1.14A, Subsection (d);
SECTION 11.24, Article 21.71, Subsection (d);
SECTION 11.30, Article 21.21-5, Subsection (b);
SECTION 11.35, Article 21.49, Section 8A(c);
SECTION 11.42, Article 21.49, Section 5(c);
SECTION 11.85, Article
SECTION 11.88, Article 9.57, Subsection (d); and
SECTION 13.12.

SECTION BY SECTION ANALYSIS

ARTICLE 1. TEXAS DEPARTMENT OF INSURANCE

SECTION 1.01. Amends Chapter 1, Insurance Code, by adding Article 1.01A, as follows:

Art. 1.01A. CREATION AND STRUCTURE OF THE TEXAS DEPARTMENT OF INSURANCE. (a) Defines "board," "department," and "commissioner."

(b) Provides for the creation of the Texas Department of Insurance (department) to regulate the business of insurance in this state. Provides that the department is composed of the State Board of Insurance (board), the commissioner of insurance (commissioner), and other officers and employees.

(c) Provides that all references in this code and other statutes of this state to the Board of Insurance Commissioners, the State Board of Insurance, of individual commissioners mean the department, the board, or the commissioner.

SECTION 1.02. Amends Chapter 1, Insurance Code, by amending Articles 1.02, 1.04, 1.06, 1.06B, 1.09, 1.09-1, 1.09-3, and 1.33A, and adding Articles 1.09-5 and 1.10C, as follows:

Art. 1.02. New title: OPERATION OF DEPARTMENT; BOARD. (a) Makes conforming changes.

(b) Requires all powers, functions, authority, prerogatives, duties, obligations, and responsibilities to be exercised, performed, and administered by the commissioner as the chief executive and administrative officer of the department. Provides that the duties of the board are primarily supervisory, and that the insurance laws and other laws of this state providing jurisdiction in or applicable to the department or the commissioner are primarily the duty and responsibility of the commissioner.

(c) Requires the governor, on February 10th of each odd-numbered year, to appoint a chairman from the membership of the board.

(d) Redesignates Subsection (f), and makes a conforming change.

(e) Redesignates Subsection (g). Requires the governor, in making appointments under this section, to attempt to appoint members of different minority groups.

(f)-(i) Redesignate the subsections and make conforming changes.

Art. 1.04. DUTIES AND ORGANIZATION OF THE STATE BOARD OF INSURANCE. (a) Requires the board to act as a unit. Provides that a majority vote is necessary to transact business, and requires the board to maintain an official set of records of its actions.

(b) Requires the board to determine policy for the department, rules, rates, forms, and appeals as provided by law, but requires it to otherwise execute its duties through the commissioner.

(c)-(d) Make conforming changes.

(f) Provides for petitions in the district court of Travis County, and not elsewhere, against the board as defendant by any insurance company or other party at interest that is dissatisfied with any ruling, action, decision, regulation, order, rate, rule, form, act, or administrative ruling adopted by the board. Provides that judicial review is

subject to the substantial evidence rule and subject to the Administrative Procedure and Texas Register Act. Provides that the filing of a petition for judicial review does not vacate a decision of the board. Makes conforming changes. Deletes language relating to trial de novo.

(g) Makes conforming changes.

(h) Requires the department to establish a program to resolve policy holder complaints.

Art. 1.06. INELIGIBILITY. (a) Provides that certain persons are ineligible to be appointed to or to accept any office under the board or the commissioner.

(b) Prohibits certain persons from being an employee of the department.

Art. 1.06B. LOBBYING ACTIVITIES. Makes a conforming change. Substitutes "department" for "board."

Art. 1.09. New title: COMMISSIONER OF THE TEXAS DEPARTMENT OF INSURANCE. (a) Requires the board to appoint a commissioner of insurance to be the department's chief executive and administrative officer. Requires the commissioner to carry out the insurance laws of this state and other laws, providing jurisdiction in or applicable to the department or commissioner under the general supervision and direction of the board.

(b) Deletes certain eligibility requirements for the commissioner.

(c)-(e) Redesignate subsections, make conforming changes, and substitute "commissioner" for "commissioner of insurance."

(f) Redesignates Subsection (g) in the existing text. Requires the commissioner to appoint personnel necessary to carry out the duties and functions of the department under the Insurance Code, other insurance laws of this state, and other laws applicable to the department or the commissioner.

(g)-(h) Redesignate subsections and make conforming changes.

Art. 1.09-1. REPRESENTED BY THE ATTORNEY GENERAL. (a)-(b) Make conforming changes.

Art. 1.09-3. CERTAIN ACTS SHALL BE UNLAWFUL. Makes conforming changes. Provides that employees of the board are subject to any other laws regulating the ethical conduct of state officers and employees.

Art. 1.09-5. DEPARTMENT EMPLOYEE IN PROCEEDINGS TO SET RATES. (a) Prohibits an employee of the department, except as provided by Subsection (c) of this section, from appearing as a party, presenting evidence, or questioning witnesses in any proceeding before the board or its designated hearings officer in which insurance rates are set under this code.

(b) Provides that this article does not prohibit access by an employee of the department to any data collected by or submitted to the department.

(c) Sets forth conditions under which an employee of the department may appear before the board or its designated hearings officer.

Art. 1.10C. ACCESS TO CERTAIN CRIMINAL HISTORY RECORD INFORMATION. (a) Provides that the department, for good cause, is entitled to obtain criminal history record information to in-

investigate an applicant for a license as an insurance agent or a corporate officer of an insurance company.

(b) Allows the department to use information obtained under this section only to ascertain the eligibility of an investigated person to engage in the business of insurance in this state.

(c) Requires the board to adopt a uniform method of obtaining criminal history record information, and to adopt rules governing the obtaining, custody, and use of information obtained under this section.

(d) Allows the department to require a person being investigated to submit to the Department of Public Safety or to another law enforcement agency a complete set of fingerprints. Authorizes the department to submit the fingerprints to the FBI if relevant information is not obtained at the state or local law enforcement agency level.

(e) Allows the department to deny a license to an applicant for a license as an insurance agent who fails to provide a complete set of fingerprints on request and to deny a certificate of authority to an insurance company whose corporate officers fail to provide complete sets of fingerprints on request.

(f) Provides that information obtained under this section is confidential, and authorizes its release only on court order or written consent of the person being investigated.

(g) Requires the department, after issuing the license or certificate of authority, to seal the criminal history record information and deliver it to the custody of the commissioner or the commissioner's designee. Requires the information to be maintained as provided by board rule.

(h) Provides that a person commits a Class A misdemeanor by disclosing any information received under this section, except as provided.

Art. 1.33A. APPLICATION OF ADMINISTRATIVE PROCEDURE AND OPEN MEETINGS LAWS. Provides that the department and the board are subject to the open meetings law, instead of the State Board of Insurance. Makes conforming changes.

SECTION 1.03. Amends Article 1.03(a), Insurance Code, to require the governor to appoint a member of the board each odd-numbered year. Deletes outdated information.

SECTION 1.04. Amends Article 1.06A(a), Insurance Code, to make conforming changes.

SECTION 1.05. Amends Chapter 1, Insurance Code, by adding Articles 1.06C and 1.06D, as follows:

Art. 1.06C. PROHIBITED REPRESENTATION. (a) Prohibits a person serving as a member of the board, commissioner, general counsel, public counsel, or head of a department division from representing any person in a proceeding before the department or from receiving compensation for services rendered on behalf of any person regarding a matter pending before the department, for a period of two years after the date the person ceases to be a board member, commissioner, general counsel, public counsel, or division head.

(b) Prohibits certain employees of the department from representing any person in matters before the department for a period of two years after the employee terminates employment with the department. Provides that this subsection applies to a state employee who is exempt from the state's position classification plan, but not to an employee compensated at less than salary group 17, step 1.

(c) Prohibits a former board member, a former commissioner, a former general counsel, a former public counsel, or former head of a department division, or a former employee described by Subsection (b) from representing any person or receiving compensation for services rendered on behalf of any person regarding a case or matter with which the former member, commissioner, general counsel, public counsel, division head or employee was directly concerned during the period of employment or service.

(d) Provides that a former member or employee or a former commissioner, general counsel, or public counsel commits a Class A misdemeanor by violating this section.

Art. 1.06D. REGISTRATION OF PERSONS REPRESENTING CLIENTS BEFORE BOARD. Requires a person to register with the Secretary of State if the person represents a client before the board, or any board, committee, or other body appointed by the board, more than twice during any calendar year.

SECTION 1.06. Amends Section 7(a), Article 1.10, Insurance Code, as follows:

(a) Provides for monetary sanctions not to exceed \$25,000.

SECTION 1.07. (a) Amends Section 4(d), Article 1.10A, Insurance Code, to provide that after a hearing, if the commissioner determines that a cease and desist order has been violated, the commissioner may impose a civil penalty of \$25,000 for each violation.

(b) Repealer: Article 1.10A, Insurance Code, as added by Section 1, Chapter 1026, Acts of the 71st Legislature, Regular Session, 1989.

SECTION 1.08. Amends Articles 1.35A and 1.35B, Insurance Code, as follows:

Art. 1.35A. New title: OFFICE OF PUBLIC INSURANCE COUNSEL.
(a) Provides that the independent office of public insurance counsel represents the interests of insurance consumers in Texas.

(b) Requires the governor to appoint a public counsel to serve as the executive director of the office of public insurance counsel.

(c) and (e) Make conforming changes.

(f) Prohibits a person serving as the public counsel, for a period of two years after the date the person ceases to be public counsel, to represent any person in a proceeding before the board or receive compensation for services rendered to a person in a case before the board.

(g) Allows the public counsel to assess the impact of insurance rates, rules, and forms on insurance consumers.

(h)(1) Authorizes the public counsel to appear or intervene as a party in matters involving rates, rules, and forms affecting property and casualty insurance, title insurance, life, health, and accident insurance, and matters involving withdrawal of approval of policy forms under Article 3.42(f) and 3.42(g) of this code if the public counsel determines that such forms do not comply with this code or any valid rule relating thereto duly adopted by the State Board of Insurance, or is otherwise contrary to law.

(2) Authorizes the public counsel to initiate or intervene as a matter of right or otherwise appear in a judicial proceeding involving or arising out of any action taken by an administrative agency in a proceeding in which the public counsel appeared under the authority granted by this article.

(3) Makes a conforming change.

(5) Authorizes the public counsel to recommend to the legislature legislation that would affect positively the interests of insurance consumers.

(6) Authorizes the public counsel to appear or intervene on behalf of insurance consumers as a class in all proceedings in which the counsel determines that consumers need representation, with exceptions.

(7) Requires the public counsel to submit to the department for adoption a consumer bill of rights. Requires a copy of the bill of rights to be distributed upon the issuance of a policy by insurers to each policyholder under rules adopted by the department.

(i) Prohibits the public counsel from intervening in hearings before the board or commissioner relating to approval of charters, licenses, acquisitions, mergers, examinations, proceedings concerning the solvency of individual insurers after a receiver is appointed, or other matters affecting individual insurer or agent licenses. Provides that the confidentiality requirements applicable to examination reports under Article 1.18 of this code and to the commissioner under Article 21.28, Section 3(A) of this code, apply to the public counsel.

(j) Provides that any order of the board setting a rate under this code and that is appealed, remains in effect during the pendency of the appeal.

(k) Provides that the office of public insurance counsel is subject to the Sunset Act, and is abolished September 1, 1993, unless continued.

Art. 135B. New title: ASSESSMENT FOR THE OFFICE OF PUBLIC INSURANCE COUNSEL. (a) Requires the board to collect certain assessments to defray the costs of creating, administering, and operating the office of public insurance counsel.

(b)-(d) Make conforming changes.

SECTION 1.09. Amends Section 10, Article 3.70-10, Insurance Code, to make conforming changes and add the commissioner to the provisions of this section. Deletes trial de novo provisions.

SECTION 1.10. Amends Section 21, Article 17.25, Insurance Code, to provide for appeal to the district court of Travis County of any order or ruling of the board. Requires the action to be tried and determined according to Article 1.04 of this code.

SECTION 1.11. Amends Section 23(c), Article 20A.23, Insurance Code, to authorize any person who is dissatisfied with a rule, ruling, or decision of the board to have the action reviewed by a district court in Travis County and not elsewhere. Provides that the action takes precedence over all other causes on the docket and provides for an appeal to be tried as provided by Article 1.04. Deletes the requirement that an appeal be taken to a district court in Travis County.

SECTION 1.12. Amends Section 6A(f), Article 21.49, Insurance Code, to add a county commissioner or county judge to the membership of the advisory committee. Requires that the member who is a registered professional engineer be also a resident of the catastrophic area. Deletes language providing that notice to the board's advisory committee of the adoption of certain changes is not necessary for emergency actions.

SECTION 1.13. Amends Section 9, Article 21.49, Insurance Code, to substitute "commissioner" for "board" throughout the section.

SECTION 1.14. Amends Section 7(b), Article 21.49-3, Insurance Code, to make conforming changes and substitute "commissioner" for "board."

SECTION 1.15. Amends Chapter 1, Insurance Code, by adding Article 1.17A, as follows:

Art. 1.17A. LEGISLATIVE INTENT AS TO APPOINTMENT OR EMPLOYMENT OF EXAMINERS AND ACTUARIES. Sets forth legislative intent and a legislative pledge.

ARTICLE 2. RATES AND FORMS

SECTION 2.01. Amends Chapter 5, Insurance Code, by adding Subchapter M, as follows:

SUBCHAPTER M. FLEXIBLE RATING PROGRAM FOR CERTAIN INSURANCE LINES

Art. 5.101. FLEXIBLE RATING PROGRAM FOR CERTAIN INSURANCE LINES

Sec. 1. PURPOSE; EXPIRATION DATE. Creates the pilot program on flexible rating, to help stabilize the rates charged for insurance in certain property and casualty lines. Provides that the article expires December 31, 1995.

Sec. 2. DEFINITIONS. Defines "benchmark rate," "classification," "flexibility band," "line," "rate," and "statutory rate limitation."

Sec. 3. OPERATION OF FLEXIBLE RATING PLAN. (a) Provides that under the flexible rating plan prescribed by this article, rates used by insurers in writing property or casualty insurance for lines subject to this article are determined through the application of flexibility bands to a benchmark rate and are implemented on a file and use basis.

(b) Requires the board to promulgate a benchmark rate and a flexibility band for each line subject to this article after notice and hearing pursuant to Article 6252-13a. Outlines procedures.

(c) Provides that each initial flexibility band is based on a benchmark rate promulgated by the board. Requires the board to conduct hearings to determine the benchmark rates and flexibility bands by line, on or before July 1, 1992, and annually thereafter. Sets forth hearings procedures.

(d) Authorizes an insurer to use any rate within the applicable range without prior board approval. Sets forth procedures.

(e) Prohibits an insurer from using a rate outside the upper and lower limits of the flexibility band without the prior approval of the board. Outlines procedures for filing.

(f) Provides for statutory rate limitations.

(g) Requires the board by rule to adopt a rating manual of classifications and territories for each line subject to Subchapter M and to spread the benchmark rate among those classifications and territories. Outlines guidelines.

(h) Sets forth what "disallowed expenses" include.

(i) Authorizes an insurer to change a rate adopted under Subsection (d) on a file and use basis not more than twice during a 12-month period. Provides that additional changes require prior approval of the board.

Art. 5.06. POLICY FORMS AND ENDORSEMENTS. (1) Requires the board to adopt a policy form and endorsement for each type of motor vehicle insurance subject to this subchapter. Provides for standards of coverage.

(2) Requires an insurer to use the form adopted by the board with exceptions. Deletes language.

(3) Allows the board to approve use of certain policy forms.

(4) Allows the insurer to use an endorsement to the policy form, if approved by the board.

(5) Redesignates and makes conforming changes.

(6) Redesignates the subsection.

(7) Requires plain language on the policy form, and establishes tests for the same.

(8) Allows the board to withdraw its approval of a policy or endorsement form at any time, after notice and hearing.

SECTION 2.08. Amends Section (2), Article 5.06-1, Insurance Code, as follows:

(2)(c) Deletes provision authorizing the board to promulgate certain forms.

(d) Provides for inclusion of certain items in portions of the policy form adopted under Article 5.06 of this code.

SECTION 2.09. Amends Subsection (f), Article 5.06-3, Insurance Code, as follows:

(f) Provides that this article applies only to motor vehicle insurance policies subject to this subchapter.

SECTION 2.10. Amends Article 5.06-5, Insurance Code, to redesignate it as Article 5.06-6 and make conforming changes.

SECTION 2.11. Amends Chapter 5A, Insurance Code, by adding Section 5.07-1, as follows:

Art. 5.07-1. DISCLOSURE OF CONSUMER INFORMATION. (a) Prohibits an insurer from in any way limiting its coverage under a policy covering damage to a motor vehicle, except as provided by rules duly promulgated by the board.

(b) Requires any rules promulgated by the board to implement this article to include certain requirements.

SECTION 2.12. Amends Article 5.09, Insurance Code, as follows:

Art. 5.09. DISCRIMINATIONS OR DISTINCTIONS. (a) Creates this subsection from the existing text.

(b) Provides that motor vehicle rates are determined by Subchapter M, on or after September 1, 1992. Provides that this subsection expires December 31, 1995.

SECTION 2.13. Amends Article 5.10, Insurance Code, as follows:

Art. 5.10. RULES AND REGULATIONS. Deletes language giving the board control over certain agencies.

SECTION 2.14. Amends Article 5.11, Insurance Code, as follows:

Art. 5.11. HEARING ON GRIEVANCES. (a)-(b) Creates these subsections from the existing text.

(c) Provides that rates for vehicles are determined by Subchapter M, on and after September 1, 1992. Provides that this subsection expires December 31, 1995.

SECTION 2.15. Amends Chapter 5B, Insurance Code, by adding Article 5.13-2, as follows:

Art. 5.13-2. RATES FOR GENERAL LIABILITY AND COMMERCIAL PROPERTY INSURANCE COVERAGE

Sec. 1. PURPOSE; EXPIRATION DATE. (a) Sets forth the purposes of this article.

(b) Provides that this article expires December 31, 1995.

Sec. 2. SCOPE. Provides the application of this article.

Sec. 3. DEFINITIONS. Defines "filer," "insurer," "prospective loss costs," "rate," "supplementary rating information," and "supporting information."

Sec. 4. RATE STANDARDS. (a) Requires rates to be made under this section.

(b) Lists considerations to be made by an insurer in setting rates.

(c) Provides for the grouping of risks by classifications.

(d) Prohibits rates from being excessive, inadequate, unfairly discriminatory, or unreasonable.

(e) Requires an insurer to use available premium, loss, claim, and exposure information to the full extent of the actuarial credibility of that information in setting rates applicable solely to policyholders. Provides for the use of experience from outside the state.

Sec. 5. RATE FILINGS; LEGISLATIVE REPORT. (a) Requires the filing of certain information.

(b) Provides for a hearing and determination that an insurer's rates require supervision.

(c) Provides procedures for an insured that is aggrieved.

(d) Requires the board to issue an order specifying defects of the filing.

(e) Requires quarterly filings with the board. Provides for the board to also report to designated persons.

Sec. 6. PUBLIC INFORMATION. Allows public inspection of filings.

Sec. 7. DISAPPROVAL. (a) Allows the board to disapprove a rate under specific circumstances.

(b) Requires the board to issue an order specifying defects in filing.

(c) Allows the board to issue a disapproval order after a hearing. Specifies procedures and time limits.

Sec. 8. FORMS. (a) Requires forms to be filed with and approved by the board.

(b) Sets time for filing and use of forms.

(c) Requires a board order disapproving a form to state grounds for the disapproval.

(d) Prohibits an insurer from using in this state any form after disapproval of the form or withdrawal of approval by the board.

(e) Allows the board to promulgate standard insurance policy forms, endorsements, and other related forms that may be used by insurers instead of their own forms.

Sec. 9. BOARD AUTHORITY. Authorizes the board to issue an order and to thereafter rely upon Subchapters A-L of this chapter in regulation of property and casualty insurance, if the board determines that the implementation of this article is contrary to the public interest and has resulted or may result in imminent peril to the insurance consumers of this state.

Sec. 10. ADMINISTRATIVE PROCEDURE AND TEXAS REGISTER ACT APPLICABLE. Provides that the provisions of the Administrative Procedures Act apply to all rate hearings conducted under this article.

SECTION 2.16. Amends Article 5.14, Insurance Code, as follows:

Art. 5.14. MAKING OF RATES. (a) Creates this subsection from existing text.

(b) Provides that rates for general liability and commercial property insurance are determined by Article 5.13-2 on and after September 1, 1992. Provides that this subsection expires on December 31, 1995.

SECTION 2.17. Amends Article 5.15, Insurance Code, as follows:

Art. 5.15. FILING OF RATES AND RATING INFORMATION; APPROVAL.

(b) Deletes language regarding licensed rating organizations. Redesignates Subsection (c) in the existing text.

(c)-(g) Redesignates subsections.

(h) Provides that rates for general liability and commercial property insurance are determined, and hearings for those rates conducted, as provided by Article 5.13-2, on and after September 1, 1992. Provides that this subsection expires December 31, 1995.

SECTION 2.17A. Amends Section 1, Article 5069-6.04, V.T.C.S., to provide that a seller or holder of a retail installment contract or retail charge agreement may request or allow a buyer to provide credit involuntary unemployment insurance. Makes conforming changes.

SECTION 2.17B. Amends Article 5069-6.04, V.T.C.S., by adding Section (11), to authorize a retail seller to include any type of insurance premium in the billing of its accounts so long as no charge is made and no premium is charged under any retail credit agreement when there is no monthly balance or when balances are paid in full.

SECTION 2.17C. Amends Chapter 21, Insurance Code, by adding Article 21.79E, as follows:

Article 21.79E. CREDIT INVOLUNTARY UNEMPLOYMENT INSURANCE.

(a) Authorizes any insurer authorized to write any form of casualty insurance in this state to also write group or individual credit involuntary unemployment insurance indemnifying a debtor for installment or other periodic payments on the indebtedness while the debtor is involuntarily unemployed. Provides that such insurance may be written alone or in conjunction with credit life insurance, credit accident and health insurance, or both, in policies issued by any authorized insurer, but not in contravention of the Texas Free Enterprise and Antitrust Act of 1983. Provides that rates and

forms for such insurance may be made and filed in accordance with Articles 5.14 and 5.15 of this code.

SECTION 2.17D. Amends Section 4A, Article 5.15-1, Insurance Code, to make conforming changes.

SECTION 2.18. Amends Article 5.18, Insurance Code, as follows:

Art. 5.18. INFORMATION TO BE FURNISHED INSURED; HEARINGS AND APPEALS OF INSURED. (a) Requires insurers subject to this chapter to furnish the rate used by the insurer to a person requesting such information.

(b) Requires the insurer to provide an aggrieved person an opportunity for review of how the rating system has been applied.

SECTION 2.19. Amends Subsections (a) and (c), Article 5.19, Insurance Code, as follows:

(a) Makes conforming changes.

(c) Deletes rating organizations from the provisions of this subsection.

SECTION 2.20. Amends Article 5.20, Insurance Code, as follows:

Art. 5.20. REBATES PROHIBITED. (a) Creates this subsection from existing language. Changes language referring to rating plans, from "approved by the board" to "authorized under this subchapter."

(b) Creates this subsection from existing language.

SECTION 2.21. Amends Article 5.21, Insurance Code, as follows:

Art. 5.21. FALSE OR MISLEADING INFORMATION. Replaces "rating organization" with "other entity." Provides that an insurer or agent who knowingly misrepresents the actual or replacement value of real or personal property for the purpose of achieving an unfair competitive rate advantage commits an offense.

SECTION 2.22. Amends Article 5.22, Insurance Code, as follows:

Art. 5.22. PENALTIES. (a) Creates this subsection and allows the board to suspend the license of any advisory organization licensed under Art. 5.73. Applies the provisions of this article to agents, as well as insurers.

(b) Creates this subsection from existing text.

SECTION 2.23. Amends Article 5.25, Insurance Code, as follows:

Art. 5.25. BOARD SHALL FIX RATES. (a) Creates this subsection from existing text.

(b) Provides that rates for homeowners and farm and ranch owner's insurance and residential fire and residential allied lines coverage are determined by Subchapter M, on and after September 1, 1992. Provides that rates for other lines subject to this subchapter are provided by Article 5.13-2. Provides that this subsection expires December 31, 1995.

SECTION 2.24. Amends Article 5.25A, Insurance Code, as follows:

Art. 5.25A. RATES APPLICABLE TO CERTAIN LOCATIONS. (a) Creates this subsection from existing text.

(b) Provides that rates for homeowners and farm and ranch owner's insurance and residential fire and residential allied lines coverage are determined by Subchapter M, on and after September 1, 1992. Provides that rates for other lines subject to this subchapter are provided by Article

5.13-2. Provides that this subsection expires on December 31, 1995.

SECTION 2.25. Amends Sections 1, 2, 5, and 6, Article 5.25-2, Insurance Code, as follows:

Sec. 1. Redefines "list."

Sec. 2. (a) Requires the board to compile a list of the insured fire losses paid under policy forms adopted or approved by the board under Art. 5.35.

(b) Sets forth information this list must include.

Sec. 5. Deletes "standard policy" and replaces language requiring the board to make certain changes to correct the list of losses paid under policy forms adopted or approved by the board.

Sec. 6. Requires the board to set and collect a charge for a list of losses paid under policy forms adopted or approved by the board under Article 5.35 of this subchapter.

SECTION 2.26. Amends Article 5.26(d), Insurance Code, and adds Subsection (i), as follows:

(d) Deletes the reference to rating organizations. Provides that all deviations from maximum rates shall be governed by this article.

(i) Provides that rates for homeowners and farm and ranch owner's insurance coverage are determined by Subchapter M, on and after September 1, 1992. Provides that rates for other lines subject to this subchapter are provided by Article 5.13-2. Provides that this subsection expires on December 31, 1995.

SECTION 2.27. Amends Article 5.28, Insurance Code, as follows:

Art. 5.28. STATEMENTS AND BOOKS. (a)-(c) Create subsections from existing text.

(d) Provides that rates for homeowners and farm and ranch owner's insurance and residential fire and residential allied lines coverage are determined by Subchapter M, on and after September 1, 1992. Provides that rates for other lines subject to this subchapter are provided by Article 5.13-2. Provides that this subsection expires on December 31, 1995.

SECTION 2.28. Amends Article 5.29, as follows:

Art. 5.29. SCHEDULE AND REPORT. (a) Creates this subsection from existing text.

(b) Provides that rates for homeowners and farm and ranch owner's insurance and residential fire and residential allied lines coverage are determined as provided by Subchapter M, on and after September 1, 1992. Provides that rates for other lines subject to this subchapter are provided by Article 5.13-2. Provides that this subsection expires on December 31, 1995.

SECTION 2.29. Amends Article 5.30, Insurance Code, as follows:

Art. 5.30. ANALYSIS OF RATE. (a) Creates this subsection.

(b) Provides that rates for homeowners and farm and ranch owner's insurance coverage are determined by Subchapter M, on and after September 1, 1992. Provides that rates for other lines subject to this subchapter are provided by Article 5.13-2. Provides that this subsection expires on December 31, 1995.

SECTION 2.30. Amends Article 5.31, Insurance Code, as follows:

Art. 5.31. CHANGE OR LIMIT OF RATE. (a) Creates this subsection from existing text.

(b) Provides that rates for homeowners and farm and ranch owner's insurance and residential fire and residential allied lines coverage are determined by Subchapter M, on and after September 1, 1992. Provides that rates for other lines subject to this subchapter are provided by Article 5.13-2. Provides that this subsection expires on December 31, 1995.

SECTION 2.31. Amends Article 5.32, Insurance Code, as follows:

Art. 5.32. PETITION FOR CHANGE. (a) Creates this subsection from existing text.

(b) Provides that rates for homeowners and farm and ranch owner's insurance and residential fire and residential allied lines coverage are determined by Subchapter M, on and after September 1, 1992. Provides that rates for other lines subject to this subchapter are provided by Article 5.13-2. Provides that this subsection expires on December 31, 1995.

SECTION 2.32. Amends Article 5.34, Insurance Code, as follows:

Art. 5.34. REVISED RATES. (a) Creates this subsection from existing text.

(b) Provides that rates for homeowners and farm and ranch owner's insurance and residential fire and residential allied lines coverage are determined by Subchapter M, on and after September 1, 1992. Provides that rates for other lines subject to this subchapter are provided by Article 5.13-2. Provides that this subsection expires on December 31, 1995.

SECTION 2.33. Amends Article 5.35, Insurance Code, as follows:

Art. 5.35. New title: POLICY FORMS. (a) Creates this subsection. Requires the board to adopt policy forms and endorsements for each kind of insurance subject to this subchapter. Excepts lines regulated under Article 5.13-2. Deletes language regarding policies of insurance. Provides that coverage under policy forms and endorsements adopted under this subsection is the minimum coverage allowed.

(b) Requires the use of forms adopted by the board with exceptions.

(c) Deems certain described contracts void.

(d) Allows the board to approve use of policy forms adopted by certain named organizations with conditions.

(e) Allows the insurer to use an endorsement if board approved. Prohibits the endorsement from reducing coverage, with exceptions.

(f) Requires policy forms to be in plain language. Sets tests for plain language.

(g) Allows the board to withdraw its approval of a policy or endorsement form at any time, after notice and hearing.

SECTION 2.34. Amends Article 5.39, Insurance Code, as follows:

Art. 5.39. COMPLAINT OF RATES OR ORDERS. (a) Creates this subsection from existing text.

(b) Provides that rates for homeowners and farm and ranch owner's insurance and residential fire and residential allied lines coverage, and hearings related to those rates, are determined by Subchapter M, on and after September 1,

1992. Provides that rates for other lines subject to this subchapter are provided by Article 5.13-2. Provides that this subsection expires on December 31, 1995.

SECTION 2.35. Amends Article 5.40, Insurance Code, as follows:

Art. 5.40. HEARING OF PROTESTS. (a)-(c) Create subsections from existing text.

(d) Provides that rates for homeowners and farm and ranch owner's insurance and residential fire and residential allied lines coverage, and hearings relating to those rates, are determined by Subchapter M, on and after September 1, 1992. Provides that rates for other lines subject to this subchapter are provided by Article 5.13-2. Provides that this subsection expires on December 31, 1995.

SECTION 2.36. Amends Article 5.41, Insurance Code, as follows:

Art. 5.41. REBATING OR DISCRIMINATION. (a) Creates this subsection from existing text.

(b) Provides that rates for homeowners and farm and ranch owner's insurance and residential fire and residential allied lines coverage are determined by Subchapter M, on and after September 1, 1992. Provides that rates for other lines subject to this subchapter are provided by Article 5.13-2. Provides that this subsection expires on December 31, 1995.

SECTION 2.36A. Amends Section 9, Article 5.43-2, Insurance Code, as amended, by amending Subsection (a), as follows:

(a) Prohibits fire detection and alarm equipment from being sold, offered for sale, leased, installed, or used to monitor property in this state unless it carries a label of approval or listing of a testing laboratory. Provides that the continued use or monitoring of equipment in place which complied with applicable state law at the time of its original placement, without extension, modification, or alteration, is not prohibited.

(b) Prohibits fire detection and alarm equipment for use in one or two family homes from being sold, offered for sale, leased, installed, or used to monitor property in this state after April 14, 1989, unless it carries a label of approval or listing of a testing laboratory. Provides that the continued use or monitoring of equipment in place which complied with applicable state law at the time of its original placement, without extension, modification, or alteration, is not prohibited.

(c) Provides that certain fire alarm devices are exempt from requirement of a label or listing of testing laboratories.

(d) Creates this subsection from existing text.

SECTION 2.37. Amends Article 5.50, Insurance Code, as follows:

Art. 5.50. EXCEPTIONS. Deletes language regarding a purely cooperative interinsurance and reciprocal exchange carried on by the members.

SECTION 2.38. Amends Article 5.53, Insurance Code, as follows:

(g) Provides that the flexible rating program created under Subchapter M does not apply to this article.

(h) Prohibits the provisions of Chapter 5 of this code from applying to marine insurance other than inland marine insurance governed by this article.

SECTION 2.39. Amends Article 5.73, Insurance Code, as follows:

Art. 5.73. ADVISORY ORGANIZATIONS

Sec. 1. Authorizes every insurer transacting business in the state to subscribe to an advisory organization, and provides that every insurer transacting business in the state is permitted to submit to and receive from any advisory organization statistical plans, historical data, prospective loss costs, supplementary rating information, policy forms and endorsements, and research and performance of inspections, except final rates or recommendations regarding profit or expense provisions, other than loss adjustment expenses.

Sec. 2. (a) Prohibits an advisory organization from compiling or distributing, and an insurer from accepting, recommendations for rates or for profit and expenses other than loss adjustment expenses.

(b) Provides that this section does not apply to workers' compensation insurance. Provides that this subsection does not apply if H.B. 2898, Acts of the 72nd Legislature, Regular Session, 1991, becomes law.

Sec. 3. (a) Sets forth prohibited activities of an insurer or advisory organization.

(b) Prohibits an insurer or advisory organization from making an agreement in restraint of trade.

(c) Allows the board, after hearing, to issue an order specifying any act or practice which is unfair or unreasonable. Authorizes the board to impose any sanction under Art. 1.10 of this code.

Sec. 4. (a) Requires the board to require an audit of any advisory organization providing statistics or other information in a rate setting proceeding. Requires the audit to be conducted under rules adopted by the board.

(b) Provides that an advisory organization is subject to examination under Article 5.74 of this code.

(c) Provides that reporting of data by an insurer under this article does not relieve the insurer of responsibility of reporting that data directly to the board.

Sec. 5. Provides that the authority granted under this article expires September 1, 1993.

Sec. 6. Provides that, to the extent this article conflicts with the provisions of Chapter 1, Acts of the 71st Legislature, 2nd Called Session, 1989, with respect to the setting of rates for workers' compensation insurance, the provisions of Chapter 1 control.

SECTION 2.40. Amends Article 5.75, Insurance Code, as follows:

Art. 5.75. SCOPE OF SUBCHAPTER. Deletes the reference to Chapter 9.

SECTION 2.41. Amends Article 5.96, Insurance Code, by adding Subsections (a-1) and (1), and amending Subsections (c) and (i), as follows:

(a-1) Provides that the article does not apply to the setting of flexibility bands and benchmark rates for motor vehicle and fire and allied lines insurance under Subchapter M. Provides that this subsection expires December 31, 1995.

(c) Requires the board to give notice as specified prior to acting on a petition. Describes such notice and contents of the notice.

(i) Allows emergency action by the board if it finds that there is an imminent peril to the public.

(l) Permits the board or the office of public insurance counsel to require additional information from the person filing a petition under Subsection (b).

SECTION 2.42. Amends Article 5.96A, Insurance Code, by adding Subsection (d), as follows:

(d) Provides that on and after September 1, 1992, policy or endorsement forms for commercial motor vehicle insurance are adopted pursuant to Article 5.06. Provides that this subsection expires December 31, 1995.

SECTION 2.43. Amends Article 5.97, Insurance Code, by amending Subsections (c) and (j), and by adding Subsections (m) and (n), as follows:

(c) Provides for notice in a manner specified on each petition initiating a proceeding.

(j) Allows board action to take effect prior to expiration of the usual 15-day period when there is an imminent peril to the public.

(m) Allows the board or the office of public insurance counsel to require additional information from a petitioner under Subsection (b).

(n) Provides that this article does not apply to insurance lines subject to Article 5.13-2. Provides that this subsection expires December 31, 1995.

SECTION 2.44. Amends Chapter 9, Insurance Code, by adding Article 9.07A, as follows:

Art. 9.07A. POLICY FORMS FOR RESIDENTIAL REAL PROPERTY. (a) Requires the board to adopt an owner policy form.

(b) Requires a title insurance company or title insurance agents to use the owner policy form adopted.

(c) Prohibits an insurer from entering into a contract concerning an individual policy that is not contained in the application and policy. Provides that such agreements are void.

(d) Authorizes the use of endorsements approved by the board.

(e) Requires the board to adopt plain language policies.

SECTION 2.45. Amends Article 17.22, Insurance Code, as follows:

Art. 17.22. EXEMPTION FROM INSURANCE LAWS. (a) Creates this subsection from existing text.

(b) Provides that the flexible rating program created under Subchapter M, Chapter 5, does not apply to county mutual insurance companies. Provides that this section expires December 31, 1995.

SECTION 2.46. Amends Article 18.23, Insurance Code, to redesignate the article into subsections and to delete the reference to Article 5.36. Requires underwriter's at Lloyds', in addition to the Articles provided under this section, to be subject to Article 21.21 of this code.

SECTION 2.47. Amends Chapter 19, Insurance Code, by amending Article 19.12 and adding Article 19.12A, as follows:

Art. 19.12. EXEMPTION FROM INSURANCE LAWS WITH LIMITATIONS. (a) Creates this subsection from existing text.

(b) Creates this subsection from existing text. Makes a conforming change by adding a reference to Article 21.21 of this code.

Art. 19.12A. AFFILIATED RECIPROCALLS. (a) Prohibits an insurer subject to Article 5.26 of this Code from directly or indirectly assuming all or a substantial part of any risk covered by a policy written by a reciprocal exchange that is an affiliate of that insurer if the risk is written at a rate less than the rate that may be lawfully charged by the insurer or any affiliate of the insurer.

(b) Defines "affiliate" for the purposes of this section.

SECTION 2.48. Amends Chapter 18, Insurance Code, by adding Article 18.23A, as follows:

Art. 18.23A. AFFILIATED LLOYD'S. (a) Prohibits an insurer subject to Article 5.26 from directly or indirectly assuming all or part of any risk covered by an affiliated Lloyd's if the risk is written at a rate less than the rate that may be lawfully charged by the insurer subject to Article 5.26 of this code.

(b) Defines "affiliate."

(c) Authorizes underwriters making insurance under the Lloyd's plan pursuant to Chapter 18 of this code to convert the Lloyd's to a capital stock governed by Chapter 2 of this code, pursuant to the follows:

1. Authorizes the underwriters, by two-thirds vote, to adopt a plan to convert the Lloyd's to a capital stock company.

2. Requires the plan of conversion to provide that a capital stock company be formed in accordance with Chapter 2 of this code, except that: the required minimum capital and surplus of the capital stock company shall equal the required minimum guaranty fund and surplus of the Lloyd's; the assets of the capital stock company may be in cash or in the form of investment lawfully held by the Lloyd's under the code; and an original examination under Article 2.04 of this code is not required unless directed by the commissioner.

3. Requires all assets, interests, obligations, and liabilities of the Lloyd's, upon the commissioner's approval of the plan of conversion and the formation of the capital stock company, to be converted to the capital stock company governed by the provisions of Chapter 2 of this code, as amended, except as otherwise herein provided.

4. Authorizes the underwriters' rights and interests in the capital stock company, if the Lloyd's is a member of a holding company system identified in registration information filed by the Lloyd's with the commissioner, to be assigned at the time of conversion to any affiliated person in such system. Requires the result of such assignment to not be considered a change in control for purposes of Article 2.20 of this code, nor an acquisition of control for purposes of Section 5 of Article 21.49-1 of this code.

SECTION 2.49. Amends Article 21.28-E, Insurance Code, by adding Subsection (c), as follows:

Art. 21.28-E. (c) Prohibits the provisions of this article from applying to marine insurance other than inland marine insurance governed by Article 5.53.

SECTION 2.50. Amends Article 8.24, Insurance Code, as follows:

Art. 8.24. MEXICAN CASUALTY INSURANCE COMPANIES; POLICIES IN FORCE WHILE INSURED PERSONS OR PROPERTY ARE IN MEXICO; REQUIREMENTS FOR ISSUANCE IN STATE; PREMIUM TAX; RATES; ENFORCEMENT. Provides for the licensing of insurance carriers from the Republic of Mexico by the Texas Department of Insurance (department) instead of the Board of Insurance Commissioners of Texas (Board).

(a) Substitutes "department" for "Board." Deletes the provision regarding forms of every nature used in underwriting the coverage.

(b)-(e) Substitute "department" for "Board" throughout.

(f) Deletes the language requiring the coverage authorized to be underwritten only at rates prescribed or approved from time to time by such Board. Redesignates Subsection (g) in this existing text. Substitutes "department" for "Board."

(g) Redesignates Subsection (h) in the existing text. Substitutes "department" for "Board." Provides that the Commissioner of Insurance, instead of the Board, makes the determination provided for under this subsection. Makes a technical change.

(h) Substitutes "department" for "Board."

(i) Requires the department, instead of the State Board of Insurance, to have authority to suspend or revoke the certificate of authority of any insurance carrier authorized to do business in Texas under this Article, if the State Board of Insurance, after notice and opportunity for hearing, shall find that such carrier has systematically, with neglect and with willful disregard, failed to comply with its obligations derived from the contracts of insurance, and the laws applicable thereto, as contained in policies issued in the State of Texas. Makes a conforming change.

SECTION 2.51. Amends Article 9.38, Insurance Code, by adding Subsection (c), as follows:

(c) Sets forth information that each title insurance agent receiving a portion of the premium is required to disclose, in a form prescribed by the board, to each purchaser of a title insurance policy or other title insurance form.

SECTION 2.52. Amends Chapter 21, Insurance Code, by adding Section 21.69, to authorize the board to contract with any qualified entity to collect historical premium and loss data as defined by the board and pursuant to statistical plans promulgated or approved by the board.

SECTION 2.53. Amends Section B, Article 9.30, Insurance Code, by adding a new subsection, as follows:

(5) Provides that nothing in this article affects the division of premium between a title insurance company and its subsidiary title insurance agent when the title insurance company directly issues its policy or contract of title insurance pursuant to Article 9.34. Defines subsidiary for purposes of this provision.

SECTION 2.54. Amends Article 5.98, Insurance Code, to make a conforming change.

ARTICLE 3. REINSURANCE

SECTION 3.01. Amends Article 3.10, Insurance Code, by amending Subsections (a), (b), and (e), and adding Subsection (m), as follows:

(a) Allows any insurer authorized to engage in the business of insurance in this state, while in compliance with all applicable laws, to reinsure in any solvent assuming insurer, any risk or part of a risk that both are authorized to assume; however, no credit for reinsurance, either as an asset or a deduction of liability, may be taken by the ceding insurer except as provided by this article. Makes this article applicable to all insurers regulated by the board. Provides that this article does not apply to certain insurers. Sets forth requirements for qualification under this exception. Provides that this article is supplementary to and cumulative of other provisions of this code relating to insurance. Makes conforming changes.

(b) Makes a conforming change. Requires the trustee assuming insurer to report certain information by March 1 of each year to the board to enable the board to determine the sufficiency of the trust fund.

(e) Defines "qualified United States financial institution."

(m) Allows the commissioner to request the filing of certain financial statements, certificates, or letters of authority, and information. Provides that the failure of an assuming insurer that does not meet certain compliance requirements of Subsection (b) of this article may result in the commissioner issuing a directive prohibiting all licensed insurers from taking credit for business ceded with any assuming insurer after the effective date of such directive. Provides that certain nonlicensed insurers are considered to have complied with a request for information by the commissioner.

SECTION 3.02. Amends Article 5.75-1, Insurance Code, by amending Subsections (a), (b), and (e), and adding Subsections (n) and (o), as follows:

(a) Makes a conforming change. Prohibits a credit for reinsurance from being taken by the ceding insurer except as provided by this article. Provides that this article applies to all insurers, but does not apply to ceding insurers domiciled in another state that regulates credit for reinsurance under similar statutes. Sets forth a requirement for qualification of this exception. Provides that this article is supplementary to and cumulative of other provisions of this Code pertaining to reinsurance to the extent those provisions are not in conflict with this article.

(b) Delete the word domestic from the section so that the credit for reinsurance statuted or property and casualty companies will apply to all insurers licensed in this state, whether foreign or domestic. Includes as "trusteed" reinsurers incorporated underwriters which meet certain strict criteria, to provide for additional reinsurance capacity in the area of historically hard to place risks such as transportation, aviation, and marine.

(e) Amends the definition of "qualified United States financial institution," to make a nonsubstantive change.

(n) Requires an insurer to account for and record reinsurance agreements so as to reflect the effect of the agreements on the insurer's financial condition. Authorizes SBI to adopt rules relating to the accounting and financial statement requirements of this subsection and the treatment of certain reinsurance agreements.

(o) Allows the commissioner to request the filing of financial statements, certificates or letters of authority, and other information. Provides that failure of an assuming insurer that does not meet certain compliance requirements of Subsection (b) of this article may result in the commissioner issuing a directive prohibiting all licensed insurers from taking credit for business ceded with any assuming insurer after the effective date of such directive. Provides that cer-

tain nonlicensed insurers are considered to have complied with a request for information by the commissioner.

SECTION 3.03. Amends Chapter 21, Insurance Code, by adding Article 21.07-7, as follows:

Art. 21.07-7. REINSURANCE INTERMEDIARY ACT

Sec. 1. SHORT TITLE. Reinsurance Intermediary Act.

Sec. 2. DEFINITIONS. Defines "actuary," "broker," "commercially domiciled insurer," "control," "insurer," "manager," "person," "qualified United State financial institution," "reinsurance," "reinsurance intermediary," and "reinsurer."

Sec. 3. LICENSE REQUIRED; LICENSING PROCEDURES. (a) Prohibits a person from acting as a broker as defined in Section 2.(2), or as a manager as defined in Section 2.(6), in this state unless the person is appropriately licensed in this state.

(b) Authorizes the commissioner to require a reinsurance intermediary to file a bond and maintain an errors and omissions policy. Requires the issuer of the bond or the errors and omissions policy to be acceptable to the commissioner and the bond or the policy to be in an amount determined by the commissioner to be customary and adequate under the circumstances.

(c) Requires the commissioner to issue a reinsurance intermediary license to a person who has complied with this article. Provides that a license issued to a firm or association is all inclusive of the firm's or association's members and designated employees, and a license issued to a corporation is all inclusive to its officers, designated employees, and directors.

(d) Sets forth certain requirements for applicants for reinsurance intermediary licenses who are not state residents.

(e) Sets forth conditions under which the commissioner may deny a license application, or suspend, revoke, or refuse to renew a license.

(f) Allows the commissioner to establish qualifications for licensing reinsurance intermediaries.

(g) Prohibits an application for a license from being accepted unless the application shows that the person applying has been engaged for at least three years in the business of insurance or reinsurance.

(h) Provides that a person who holds a manager license is not required to obtain a broker license but must meet all the requirements of Section 5 of this Article to act as a broker.

(i) Provides that original licenses and renewed licenses are valid for two years. Authorizes the commissioner to adopt renewal standards.

(j) Authorizes the board by rule to adopt a license expiration system and provides for the system.

(k) Authorizes the commissioner to issue a reciprocal license to act as a reinsurance intermediary in this state to a person from another state with similar requirements. Authorizes the board to adopt rules relating to reciprocal license requirements.

Sec. 4. FEES AND CHARGES. (a) Requires the board to collect a nonrefundable licensing fee from a reinsurance intermediary

who applies for an original license or renewal. Provides for the disposition of the fees.

(b) Requires the board to set the fee for original and renewal reciprocal licenses in amounts that are reasonable and necessary to cover the costs of the reciprocal licensing program.

(c) Allows examination expenses to be charged to the person examined in accordance with Article 1.16 of this code.

Sec. 5. REQUIREMENTS RELATING TO BROKERS. (a) Allows a transaction between a broker and an insurer to be entered into only under a written contract that specifies the responsibilities of each party. Sets forth the required minimum contents of the contract.

(b) Provides that if a broker places reinsurance on behalf of a licensed ceding insurer with an unlicensed reinsurer, unless the ceding insurer releases the broker from obligations under this subsection, the broker is required to inquire into the financial conditions of the assuming unauthorized reinsurer and to disclose the findings to the ceding insurer and to make available the financial statement of the reinsurer.

(c) Requires a broker to maintain a complete record of each transaction for at least 10 years after the expiration of each contract of reinsurance transacted by the broker. Sets forth the required contents of the records.

(d) Entitles each insurer subject to a contract of reinsurance transacted by a broker to access to certain information, accounts, and records maintained by the broker. Requires the broker to maintain the information in a usable form.

(e) Prohibits a person from being employed by an insurer and a broker with whom the insurer transacts business, unless the broker is under common control with the insurer and is subject to Article 21.49-1 of this code.

Sec. 6. REQUIREMENTS RELATING TO MANAGERS. (a) Allows a transaction between a manager and an insurer to be entered into only under a written contract that specifies the responsibilities of both parties. Requires the contract to be approved by the insurer's board or attorney. Requires a copy of the contract to be filed with the commissioner for approval within 30 days before the insurer assumes or cedes business through the manager. Requires the contract to incorporate the requirements of this section.

(b) Allows the insurer to terminate the contract for cause and to suspend authority of the manager.

(c) Requires the manager to render periodic accounts at least quarterly. Requires the manager to remit all funds due on a monthly basis or more often.

(d) Requires the manager to hold all funds collected in a fiduciary capacity in a qualified U.S. financial institution. Prohibits the manager from retaining more than three months of estimated claims payments and allocated loss adjustment expenses.

(e) Sets forth requirements of the manager, if premiums or contributions are collected on behalf of or for more than one insurer.

(f) Requires a manager to maintain a complete record of each transaction for at least 10 years after the expiration of each contract of reinsurance transacted. Sets forth the required contents of the records.

(g) Entitles each insurer access to certain information, accounts, and records maintained by the manager. Requires the manager to maintain the information in a usable form.

(h) Prohibits the contract from being assigned by the manager.

(i) Requires the manager to comply with certain written underwriting and rating standards.

(j) Requires the contract to identify rates, terms, and purposes of the commissions, charges, and other fees that the manager may assess.

(k) Sets forth provisions that apply if the contract permits the manager to settle claims on behalf of the insurer.

(l) Provides for payment of interim profits.

(m) Requires the manager to provide annually to each insurer and reinsurer an audited statement of the manager's financial condition prepared by an independent CPA.

(n) Requires an on-site review of the underwriting and claims processing operations of the manager.

(o) Requires the manager to disclose information concerning relationships with other insurers before ceding or assuming any business on behalf of the insurer under this contract.

(p) Requires the manager's acts to be considered as the insurer's acts.

(q) Requires verification by an actuary of the adequacy of loss reserves.

(r) Provides that if a manager places reinsurance on behalf of a licensed ceding insurer with an unlicensed reinsurer, the manager is required to inquire into the financial conditions of the assuming unauthorized reinsurer and to disclose the findings to the ceding insurer and to make available the financial statement of the reinsurer. Allows the ceding insurer to assume the obligation under this subsection by releasing the intermediary in writing from the obligations imposed under this subsection.

Sec. 7. PROHIBITED ACTS. (a) Prohibits a person from acting as a manager or broker on behalf of any insurer without holding a license, if required.

(b) Prohibits a reinsurance intermediary acting as a manager from taking certain enumerated actions.

(c) Prohibits a person from being employed by an insurer and a manager with whom the insurer transacts business. Makes exceptions.

Sec. 8. DUTIES OF INSURERS. (a) Prohibits an insurer from engaging the services of any person to act as a broker or manager on the insurer's behalf unless the person is licensed, if so required.

(b) Requires the insurer to annually obtain a copy of audited statements of the financial condition of each manager that the insurer engages. Requires the statements to be prepared by an independent certified public accountant and in an acceptable form.

(c) Provides that authority for all retrocessional contracts of participation in reinsurance syndicates rests with an officer of the insurer. Prohibits that officer from being affiliated with the manager acting for the insurer.

(d) Requires the insurer to provide to the commissioner written notification of the termination of a manager's contract including the reasons for the termination not later than the 30th day after the date of termination. Provides that the written notification is a privileged communication and is not subject to public disclosure.

(e) Prohibits an insurer from appointing certain persons to its board of directors. Provides that this subsection does not apply to a relationship governed by Article 21.49-1 of this code.

Sec. 9. EXAMINATION AUTHORITY. (a) Provides that a reinsurance intermediary is subject to examination by the commissioner. Entitles the commissioner to access to all books, bank accounts, and records of the reinsurance intermediary, and requires those to be maintained in a useable form.

(b) Provides that a manager may be examined.

(c) Requires a reinsurance intermediary, at its own expense, to submit to an examination of its financial condition and its compliance with state laws. Provides for the examination.

Sec. 10. PENALTIES AND LIABILITIES. (a) Authorizes the commissioner to impose any sanction provided by law if it is determined that a person has violated this article.

(b) Provides that a decision or order under Subsection (a) of this section is subject to review by the board. Provides that appeal by the board may be made to a district court in Travis County. Provides that review of the board's decision is subject to the substantial evidence rule.

(c) Provides that this section does not affect the commissioner's right to impose any other authorized penalties.

(d) Provides that this article does not restrict or confer any rights of third parties.

Sec. 11. RULES. Allows the board to adopt rules necessary to implement this article.

ARTICLE 4. CRIMINAL ENFORCEMENT

SECTION 4.01. Amends Chapter 1, Insurance Code, by adding Article 1.10D, as follows:

Art. 1.10D. INSURANCE FRAUD UNIT

Sec. 1. DEFINITIONS. (a) Defines "authorized governmental agency," "fraudulent insurance act," "insurer," and "person."

(b) Defines "engaged in the business of insurance."

Sec. 2. AUTHORITY. (a) Creates the insurance fraud unit in the Texas Department of Insurance.

(b) Authorizes the commissioner to make any necessary investigation of an alleged fraudulent insurance act.

(c) Requires the commissioner to take disciplinary action for an alleged fraudulent insurance act, and to report the act to an authorized governmental agency.

(d) Requires the commissioner to furnish certain evidence to any authorized governmental agency on request and to assist the authorized agency.

(e) Provides that an insurer is not prohibited or limited in conducting its own investigations. Requires an insurer to complete and draft a report of its investigative findings before requesting the commissioner to conduct an investigation and to submit its report as part of the request.

Sec. 3. SUBPOENA AUTHORITY; EXAMINATION OF MATERIAL IN OTHER STATES. (a) Authorizes the commissioner, board, or any officer designated by the commissioner or board to issue subpoenas and compel the attendance of witnesses and the production of material relevant to an inquiry under this article.

(b) Sets forth the procedure for examining materials outside the state.

Sec. 4. DISCLOSURE OF INFORMATION. (a) Requires a person to report an alleged violation of this code to the commissioner, board, or an authorized governmental agency, in writing within 30 days.

(b) Provides that notice to one authorized agency serves as notice to all authorized agencies.

(c) Requires an insurer to furnish to a requesting authorized agency any relevant information or material relating to the matter under investigation.

Sec. 5. CONFIDENTIALITY. (a) Provides that any information or material acquired by the department that is relevant to an inquiry by the fraud unit is not a public record for as long as the commissioner considers it necessary to complete the investigation, protect certain persons, or serve public interest. Provides that the information is not subject to subpoena until released for public inspection by the commissioner, or until a district court determines that public interest will not be jeopardized by obeying a subpoena. Prohibits this subsection from being construed as abrogating any provisions relating to the conduct of contested cases under Article 6252-13a, V.T.C.S.

(b) Provides that any information or material acquired under this article by an authorized agency is privileged and not a part of public record. Provides that an authorized agency or insurer may not release such information to the public. Provides that the information is not subject to a subpoena, except a grand jury subpoena, unless it is determined by a district court that public interest will not be jeopardized by obeying the subpoena.

(c) Allows an authorized agency or the department provided with information or material to release such information to another authorized agency or to the department.

Sec. 6. IMMUNITY. (a) Provides that certain persons are not subject to liability based on filing reports or furnishing other information concerning fraudulent insurance acts if those reports or information are provided to certain specified persons.

(b) Provides that certain torts or civil causes of action may not exist against a person who is an employee or agent of an employee when performing an authorized activity.

(c) Provides that this section does not affect or modify any common law or statutory privilege or immunity.

(d) Provides that a person identified by Subsection (a) of this section is entitled to an award of attorney's fees and costs if the person is a prevailing party in a civil cause of action for certain torts.

Sec. 7. OTHER LAW ENFORCEMENT POWERS AND DUTIES NOT AFFECTED. Sets forth other law enforcement powers and duties that this article does not affect.

SECTION 4.02. Amends Article 1.14-1, Insurance Code, by adding Section 13, as follows:

Sec. 13. CRIMINAL PENALTY. (a) Provides that a person who violates Section 3(b) of this article commits an offense.

(b) Provides that an offense under this section is a felony of the third degree.

(c) Provides a defense to prosecution.

SECTION 4.03. Amends Article 1.19-1, Insurance Code, as follows:

Art. 1.19-1. SUBPOENA AUTHORITY.

Sec. 1. (a) Allows the commissioner and the board to require, by subpoena, the attendance and testimony of witnesses and production of records relating to any matter that the commissioner or board has authority to consider or investigate.

(b) Allows materials located outside this state to be made available for examination at the place where the materials are located.

(c) States that a subpoena issued to a bank or other financial institution is not subject to Article 5, Chapter VII, Banking Code (Article 342-705, V.T.C.S.).

(d) Provides that information or material acquired under subpoena is not a public record and is not subject to a subpoena, except a grand jury subpoena, until a district court determines that the public interest would not be jeopardized. Provides for application of a district court order to certain records and communications.

(e) Authorizes the commissioner or board to furnish information obtained by subpoena to any law enforcement agency in all state and out of state jurisdictions, when requested.

(f) Provides that authority granted in this article is in addition to other provisions of this code.

(g) Provides that conduct of contested cases under Article 6252-13a, V.T.C.S., is not affected by this section.

Secs. 2-4. Make conforming changes.

Sec. 5. Makes conforming changes. Deletes language.

SECTION 4.04. Amends Article 1.40, Insurance Code, as follows:

Art. 1.40. IMMUNITY FROM LIABILITY. (a) Makes conforming changes.

(b) Provides immunity from civil liability to a person acting without malice, fraudulent intent, or bad faith based on filing reports or furnishing, orally or in writing, information relating to anticipated, or completed fraudulent insurance acts if those reports or information are provided or received from certain entities.

(c) Provides certain persons with immunity from civil liability for libel, slander, or any other relevant tort.

(d) Provides that a person identified by Subsection (b) of this section is entitled to an award of attorney's fees and costs if the person is a prevailing defendant in a civil cause of action for certain torts, and the party bringing

the action was not substantially justified in bringing the action. Defines "substantially justified."

(e) Provides that certain persons are not subject to civil liability for libel, slander, or any other cause of action based on the collection, review, analysis, dissemination, or report of information collected from the filings required by Article 1.11 of this code.

(f) Makes conforming changes. Deletes language.

(g) Provides that this section does not affect or modify any common law or statutory privilege or immunity.

SECTION 4.05. Amends Article 21.79B, Insurance Code, by redesignating the article as Subsection (a) and adding new Subsections (b) and (c), as follows:

Art. 21.79B. VENUE FOR PROSECUTION. (b) Provides that a person is "engaged in the business of insurance" for the purposes of this article if the person performs any act subject to regulation by the department.

(c) Provides that this article applies to each person engaged in the business of insurance. Provides that an exemption or provision of inapplicability or applicability limiting regulation by the board in this code does not limit this article. Provides that this article controls, in the event of conflict or ambiguity between this article and another article in the code.

SECTION 4.06. Amends Chapter 21, Insurance Code, by adding Article 21.79E, as follows:

Article 21.79E. ILLEGAL PRICING PRACTICES

(a) Provides that a person commits an offense if the person intentionally or knowingly charges two different prices for providing the same product or service, where the higher price is based on the fact that an insurer will pay all or part of the price of the product or service.

(b) Provides that an offense under this article is a Class B misdemeanor.

(c) Provides that an offense under this article is a fraudulent insurance act for the purpose of Article 1.10D, Insurance Code.

(d) Provides that this article does not apply to the provision of health care services to Medicaid or Medicare patients or to medically indigent persons who qualify for sliding fee scales.

ARTICLE 5. CANCELLATION AND NONRENEWAL OF POLICIES

SECTION 5.01. Amends Article 21.49-2, Insurance Code, as follows:

Art. 21.49-2. DECLINATION, CANCELLATION, AND NONRENEWAL OF CERTAIN POLICIES. Deletes language that authorizes the board to prescribe, adopt, promulgate, and enforce rules and regulations regarding cancellation and nonrenewal of certain policies. Adds language exempting policies subject to Section 21.49-2A or 21.49-2B of this code, or marine insurance policies other than inland marine policies.

SECTION 5.02. Amends Chapter 21, Insurance Code, by adding Article 21.49-2B and Article 21.49-2C, and amending Article 21.11-1, as follows:

Art. 21.49-2B. CANCELLATION AND NONRENEWAL OF CERTAIN PROPERTY AND CASUALTY POLICIES.

Sec. 1. DEFINITIONS. Defines "insurer," and "governmental unit."

Sec. 2. APPLICATION. Sets forth the applicability of this article.

Sec. 3. CANCELLATION. Provides that certain actions by an insurer constitute cancellation of an insurance policy.

Sec. 4. CANCELLATION OF POLICIES. (a) Authorizes an insurer to cancel an insurance policy covered by this article only as provided by this section.

(b) through (i) Authorize an insurer to cancel policies for various reasons.

Sec. 5. NONRENEWAL OF POLICIES; NOTICE REQUIRED. Requires an insurer to renew a policy on its expiration, at the option of the insured, unless the insurer has mailed written notice of nonrenewal to the insured at least 30 days before the date on which the policy expires.

Sec. 6. RENEWAL OF PERSONAL AUTOMOBILE INSURANCE POLICIES. Provides for the renewal of personal automobile insurance policies.

Sec. 7. RENEWAL OF CERTAIN POLICIES; SURCHARGE AUTHORIZED. (a) Provides that this section applies only to standard fire, homeowners', and farm or ranch owners' insurance policies. Provides that a claim under this section does not include a claim resulting from a loss covered by natural causes.

(b) Authorizes an insurer to assess a premium surcharge on a policy if the insured has filed two or more claims in the preceding policy year and an additional premium surcharge if an additional claim is made in the following policy year. Requires the board to set the amount of any surcharge that may be assessed under this subsection, with exceptions.

(c) Provides that an insurer may decline to renew a policy if the insured has filed three or more claims under the policy in any three-year period.

(d) Requires an insurer to notify an insured who has filed two claims in a period of less than three years that the insurer may decline to renew the policy if the insured files a third claim during the three-year period. Requires the notice to be in a form approved by the board.

(e) Authorizes an insurer that renews the policy of an insured who has filed three or more claims under the policy in a three-year period to assess a premium surcharge in an amount set by the board.

Sec. 8. RECORDS. Requires an insurer to maintain information concerning cancellation or nonrenewal of policies in accordance with the insurer's ordinary practices for maintaining records of expired policies. Requires the insurer to make the information available to the department on request.

Sec. 9. INSURER STATEMENT. Requires an insurer, at the request of an insured or an applicant for insurance, provide a written statement of the reason for a cancellation or nonrenewal of or determination not to issue a policy.

Sec. 10. LIABILITY FOR DISCLOSURE. Provides that an insurer or an employee or agent of an insurer is not liable for a statement or disclosure made in good faith under this article.

Sec. 11. EFFECT OF NONCOMPLIANCE. (a) Provides that a cancellation of a policy in violation of this article has no effect.

(b) Requires an insurer to renew a policy at the request of the insured, if the insurer fails to give notice of nonrenewal of the policy as required by this article.

Sec. 12. BOARD RULES. Authorizes the board to adopt rules not in conflict with this article relating to the cancellation and renewal of policies covered by this article.

Art. 21.49-2C. WITHDRAWAL PLAN. (a) Requires an insurer, when it proposes to withdraw from writing a line of insurance in this state, or to reduce its total annual premium volume by 75 percent or more, to file with the commissioner a plan of orderly withdrawal. Sets forth provisions the plan must include.

(b) Provides that this article does not apply to the transfer of the business from an insurer to a company under common ownership admitted to do business in this state.

(c) Authorizes the commissioner to require the deposit of securities in this state, in trust, in the name of the commissioner, upon a finding that there is reasonable cause to conclude that the interest of the people of this state are best served by such deposit.

(d) Prohibits an insurer that withdraws from writing all lines of insurance in this state from resuming writing insurance for five years without the approval of the commissioner.

(e) Requires the commissioner to approve the plan if it adequately provides for meeting the insurer's contractual obligations; providing service to its Texas policyholders and claimants; and meeting any applicable statutory obligations.

(f) Requires the withdrawal plan to be deemed approved if the commissioner has not held a hearing within 30 days after the plan is filed or has not denied approval within 30 days after the hearing. Provides that certain insurers are subject to the penalties under Article 1.10 of this code.

(g) Requires the board to adopt such rules as may be necessary to enforce the provisions of this article.

Art. 21.11-1. CANCELLATION OF AGENCY CONTRACTS BY FIRE AND CASUALTY INSURANCE COMPANIES.

Sec. 1. (a) Prohibits an insurance company writing fire and casualty insurance in this state from suspending an agency contract with any appointed agent unless proper notice of the suspension is given to the agent at least six months in advance. Defines "suspend."

(b) Makes a conforming change. Requires the company's written underwriting standards to be provided to its agents who have been terminated at the same time the company first notifies the agent of the company's intention to terminate the agent's contract. Requires the written underwriting standards that the insurer furnishes to its terminated agents to conform to the same underwriting standards that were in effect for that agent before the company's decision to terminate or suspend the agent's contract. Authorizes the furnishing of different underwriting standards to different agents. Prohibits an insurance company that is renewing contracts of insurance under this subsection from requiring a terminated agent to convert from agency billing to company billing during the termination period unless that agent agrees to such conversion in writing.

(d) Provides for a written impact statement to be given to an agent by an insurance company that proposes to revise the termination provisions of an existing agency agreement.

(e) Provides that an agency agreement that replaces, revises, or in any other way takes the place of an agency agreement that has been in effect for a period of two years is subject to the provisions of this article so long as there has been no material change in the ownership of the agency.

(f) Requires the board to promulgate reasonable rules and regulations to provide for definitions as necessary in the accomplishments of the purposes of this article.

Sec. 2. Requires the company, during the term of the contract, to not refuse to renew such business from the agent as would be in accordance with the company's current underwriting standards in effect for agents of the company whose contracts have not been terminated or suspended.

Sec. 3. Makes conforming changes.

Sec. 5. Provides that certain actions of an insurer shall be deemed a termination of the insurer's agents, and requires the insurer to comply with the provisions of this article, with exceptions.

Sec. 6. Creates this section from existing text.

SECTION 5.03. Amends Chapter 21E, Insurance Code, by adding Article 21.49-2D, as follows:

Art. 21.49-2D. PROHIBITION ON CERTAIN CANCELLATIONS AND NONRENEWAL. (a) Defines "insurer."

(b) Prohibits an insurer from cancelling or refusing to renew a policy or contract of insurance for the sole reason that the policyholder is an elected official.

ARTICLE 6. APPLICATION OF ANTITRUST LAW PROVISIONS

SECTION 6.01. Amends Section 15.03(5), Business and Commerce Code, to include the business of insurance in the definitions of "trade" and "commerce."

SECTION 6.02. Amends Section 15.05(g), Business and Commerce Code, to provide an exception that an exemption otherwise available pursuant to the McCarran-Ferguson Act does not serve to exempt activities under this Act.

ARTICLE 7. CAPITAL AND SURPLUS REQUIREMENTS

SECTION 7.01. Amends Article 2.01, Insurance Code, as follows:

Art. 2.01. FORMATION OF COMPANY. (a)-(f) Create subsections from the existing text.

(g) Provides that notwithstanding Subsection (a) of this article, effective January 1, 1992, the capital and surplus requirements imposed under Articles 2.02 and 2.20 of this code apply to each insurance company or other entity admitted to do business and authorized to write property and casualty insurance, other than farm mutual insurance companies. Sets forth companies to which Articles 2.02 and 2.20 of this code apply.

SECTION 7.02. Amends Articles 2.02 and 2.20, Insurance Code, as follows:

Art. 2.02. ARTICLES OF INCORPORATION. (a) Creates this subsection from the existing text. Makes nonsubstantive changes.

(b) Authorizes the board to adopt rules, regulations, and guidelines, from time to time, requiring any company incorporated under this article, and any alien or foreign

insurer admitted in this state to do the types of business authorized by this chapter, to maintain capital and surplus levels in excess of the statutory levels required by this article based upon any of the factors, as enumerated.

(c) Authorizes the commissioner to order an insurer subject to the capital and surplus requirements of either this article or of Article 2.20 of this code that fails to comply with such article to cease writing new business. Sets forth additional authorized powers of the commissioner.

(d) Creates this subsection from the existing text.

Art. 2.20. INCREASE OF CAPITAL AND SURPLUS. (a) Provides that an insurance company chartered under this chapter, or a foreign or alien insurance company authorized to do business in this state, and that is subject to the minimum capital and surplus requirements of this chapter that has as of September 1, 1991, less than the minimum capital and surplus required for a newly incorporated company under Article 2.02 of this code, may continue to transact the kind or kinds of business for which it holds a Texas certificate of authority. Requires the insurance company to increase its capital and surplus as required by this article.

(b) Requires the insurance company to increase its capital and surplus to the minimum capital and surplus required under Article 2.02 of this code immediately after a change of control of the insurance company or of any holding company controlling the insurance company if, after September 1, 1991, there is a change of control of at least 50 percent of the voting securities of the insurance company or holding company, or other means of control if the insurance company or holding company is not controlled by voting securities. Makes a technical change.

(c) Sets forth the schedule according to which an insurance company subject to Subsection (a) of this article must increase its minimum capital.

(d) Authorizes the board to adopt rules, regulations, and guidelines, from time to time, requiring any company subject to this article to maintain capital and surplus levels in excess of the minimums required by Article 2.02 and in excess of the levels required in the schedule established under Subsection (c) of this article. Sets forth factors upon which the rules are to be based. Requires the rules to be designed to assure the financial solvency of companies for the protection of policyholders.

(e) Requires an insurance company subject to the minimum capital and surplus requirements to not be required to increase the company's required minimum capital if the insurance company ceases to write or assume any business and so notifies the commissioner. Requires the company to be subject to the risk capital requirements of Subsection (d) of this section. Requires the company to be subject to, and to comply with, Subsection (c) upon the resumption of writing.

(f) Provides for the minimum free surplus or guaranty fund and free surplus required of insurers which are not required by law to have capital stock.

SECTION 7.03. Amends Section 1, Article 3.02, Insurance Code, as follows:

Sec. 1. (a) Creates this subsection from the existing text. Substitutes "incorporators" for "corporators" throughout the subsection.

(b) Authorizes the commissioner to order an insurer subject to the minimum capital and surplus requirements of this article that fails to comply with those requirements to cease

writing new business. Sets forth additional authorized powers of the commissioner.

SECTION 7.04. Amends Section 2, Article 3.02, Insurance Code, by amending Subsection (a) and adding Subsections (c) and (d), as follows:

(a) Authorizes an insurance company, if it subject to this chapter and doing business in this state as an authorized insurer, and it has less than the minimum capital and surplus required for a newly incorporated company under Section 1 of this article, to continue to transact the kind or kinds of insurance business for which it holds a Texas certificate of authority. Makes conforming and technical changes.

(c) Prohibits an insurance company from assuming risk of liability on, or indemnify any one person for, any risk under any health, accident, sickness, or hospitalization policy, or any combination of those policies, in an amount in excess of \$10,000, unless the issued, outstanding, and stated capital of the insurer is at least \$100,000 as of December 31, 1991, and certain other conditions exist.

(d) Provides that if an insurer subject to Subsection (c) of this section ceases to write or assume risk of liability on, or to indemnify any one person for, any risk under any health, accident, sickness, or hospitalization policy in an amount in excess of \$10,000, and so notifies the commissioner, the insurer is not thereafter required to meet the requirements of Subsection (c) of this section relating to increase in minimum of capital. Provides that if the insurer should thereafter resume writing or assuming such risk of liability on, or indemnifies any one person for, any risk under any health, accident, sickness, or hospitalization policy in an amount in excess of \$10,000, the insurer shall be subject to and comply with Subsection (c) of this section at the amount of capital required as of the date of such resumed writing or assumption of such risks.

SECTION 7.05. Amends Article 3.02, Insurance Code, by adding Sections 2A and 3A and amending Section 3, as follows:

Sec. 2A. Authorizes the board to adopt rules, regulations, and guidelines requiring any company subject to this chapter, or any alien or foreign company admitted in this state to do the types of business authorized by this chapter, that writes or assumes life insurance, annuity contracts or liability on, or indemnifies any one person for, any risk under a health, accident, sickness, or hospitalization policy, or any combination of those policies, in an amount in excess of \$10,000, to maintain capital and surplus levels in excess of the minimum levels required by either Section 1 or Section 2 of this article for that company based upon certain factors.

(b) Requires the rules adopted under this subsection to be designed to ensure the financial solvency of companies for the protection of policyholders, but may not, according to certain specified dates, require the total admitted assets of a company exceed certain percentages of its total liabilities.

Sec. 3. Provides that every life insurance company, or accident insurance company, or life and accident, health and accident, or life, health and accident insurance company incorporated or transacting such business in this state is subject to the capital and surplus requirements imposed by this article and is subject to the other provisions of this chapter, unless otherwise expressly provided by this code.

Sec. 3A. Requires fraternal benefit societies organized or operating under the provisions of Chapter 10 of this code, and mutual life insurance companies organized under the provisions of Chapter 11 of this code, to be subject to the

risk capital rules and regulations adopted by the board under Section 2A of this article.

SECTION 7.06. Amends Section 2, Article 22.13, Insurance Code, by amending Subsection (d) and adding Subsections (e), (f), and (g), as follows:

(d) Prohibits a stipulated premium company from assuming liability on, or indemnifying any one person for, any risk under any health, accident, sickness, or hospitalization policy, or any combination of those policies, in an amount in excess of \$10,000, unless the issued, outstanding, and stated capital of the company is certain amounts on certain dates. Deletes the previous amount of the capital.

(e) Authorizes the board to adopt rules and regulations requiring a stipulated premium company that writes or assumes life insurance, annuity contracts or health, accident, sickness or hospitalization insurance for any risk in excess of \$10,000 to any one person, to maintain capital and surplus levels in excess of the statutory minimum capital levels required by Chapter 22, Insurance Code, based on certain factors.

(f) Requires the rules under Subsection (e) to be designed to assure the financial solvency of companies for the protection of policyholders, and prohibits such rules, according to specified dates, from requiring that the total admitted assets of a company exceed certain percentages of its total liabilities.

(g) Provides that if a stipulated premium company ceases to write health, accident, sickness, or hospitalization policies, in an amount in excess of \$10,000, and so notifies the commissioner, the requirements imposed under Subsection (d) are to be suspended until the date on which the stipulated premium company resumes writing such policies. Requires the company, upon such resumption, to increase its capital to the amount required by Subsection (d).

SECTION 7.07. Amends Section 5, Article 1.10, Insurance Code, as follows:

Sec. 5. When a Company's Surplus is Impaired. Prohibits impairment of the capital stock from being permitted. Prohibits any impairment of the surplus of a stock company, or of the minimum required aggregate surplus of a mutual, Lloyds', or reciprocal insurer, from being permitted in excess of that provided by this section. Requires the commissioner, instead of the board, having charged against a company other than a life insurance company, the reinsurance reserve, as prescribed by the laws of this state, and adding thereto all other debts and claims against the company, to order a company to remedy an impairment of surplus to acceptable levels specified by the commissioner, or to cease to do business within this state, if certain conditions exist.

SECTION 7.08. Amends Article 3.60, Insurance Code, as follows:

Art. 3.60. New title: IMPAIRMENT OF CAPITAL OR SURPLUS. Prohibits impairment of capital from being permitted for companies either incorporated or authorized to do the lines of business authorized in Chapter 3 of this code. Prohibits an impairment of more than 90 percent of the statutory minimum surplus required of a company under Article 3.02 from being permitted, and prohibits an impairment of a company's surplus required by the board promulgated risk-based capital and surplus regulations from being permitted. Requires the commissioner to order a company to immediately reduce the impairment to acceptable levels specified by the commissioner or cease to do business within this state, if the commissioner determines that either the capital is impaired or the surplus of a company is impaired or the surplus of a company is impaired in excess of such permissible amount. Provides for proceedings

to determine further actions. Deletes existing language regarding impairment.

SECTION 7.09. Amends Article 1.32, Insurance Code, by adding Section 2A, as follows:

Sec. 2A. EFFECT OF OTHER LAWS. Provides that the capital and surplus requirements imposed by the commissioner under Section 2 of this article prevail over any other laws.

ARTICLE 8. REGULATION OF HOLDING COMPANIES

SECTION 8.01. Amends Sections 1(a) and (b), Article 21.49-1, Insurance Code, by adding positive language concerning consistency with the public interest. Deletes references to shareholders in the section.

SECTION 8.02. Amends Sections 2 and 3, Article 21.49-1, Insurance Code, as follows:

Sec. 2. DEFINITIONS. (b) Makes nonsubstantive change.

(c) Amends the definition of "control."

(h) Adds language to include farm mutual insurance companies under the definition of "insurer."

(n) Defines "immediate family."

(o) Defines "ultimate controlling person."

Redesignates previous Subsection (n), which exempts certain small insurance holding companies from the provisions of this article, as Subsection (p).

Sec. 3. REGISTRATION OF INSURERS. (a) Makes conforming changes. Deletes the optional requirement to register within 60 days of the effective date of this article.

(b) Requires every insurer subject to registration to file a registration statement in the format adopted by the commissioner or the board. Lists additional information to be included on the format. Makes conforming changes regarding the commissioner and the board.

(c) Makes conforming changes regarding the board and the commissioner. Provides that each dividend or distribution to shareholders is material for the purposes of this subsection.

(d) Makes conforming changes and deletes reference to forms.

(e) New subsection: Registration Statement and Amendment. Requires the registrant to file an amendment, updating the registration statement, within 120 days after the last day of each fiscal year of the controlling person of the insurance holding company system. Requires the registrant to file a completely restated, up-to-date registration statement in the format required consolidating any amendments, within 120 days after the last day of each calendar year ending in a five or a zero. Provides that the registrant is not required to file an annual amendment in the year it files its five-year update.

(f)-(i) Reletter the subsections.

(j) Reletters the subsection. Makes conforming changes. Provides that a disclaimer filed under this subsection does not relieve a person of the duty to comply with the requirements of Sections 5(a) through (c) of this article.

(k) Reletters the subsection.

SECTION 8.03. Amends Sections 4(b) and (d), Article 21.49-1, Insurance Code, as follows:

(b) Adds trends in the insurer's investment portfolio as a factor in consideration of the adequacy of an insurer's surplus. Makes conforming changes.

(d)(2)(ii) Adds language stating that modifications to reinsurance treaties or agreements in the list of transactions require notification of the commissioner.

(d)(3) Prohibits a domestic insurer from entering into separate transactions with persons within the holding company system as part of a plan to avoid the statutory threshold amount and thus avoid review. Allows the commissioner to consider such transactions.

SECTION 8.04. Amends Section 5, Article 21.49-1, Insurance Code, by amending Subsections (a), (c), (e), and (f), and adding Subsections (j) and (k), as follows:

Sec. 5. (a) Makes conforming changes. Amends the definition of "domestic insurer" to provide that a person controlling a domestic insurer shall not be considered primarily engaged in the business of insurance only if that person meets each of certain tests set forth.

(c) Makes conforming changes. Requires the public hearing for determining commissioner approval of acquisition of control to be held within 45 days, rather than within 30 days. Requires the commissioner to make a determination within 60 days, rather than 30, after the record of the hearing is closed. Allows the matter to be placed on the commissioner's contested case docket to hear any pre-hearing matters and motions permitted under Article 6252-13a, V.T.C.S. at any time after submission or resubmission to the commissioner of a statement filed under Subsection (a). Requires completion of an acquisition of control of a domestic insurer within 90 days of the commissioner's approval, unless an extension is granted. Requires any increase in such a company's required capital and surplus to be completed within 90 days, and before the company writes any new insurance business.

(e) Makes conforming changes.

(f) Makes conforming changes.

(j) Subjects an entity that holds a certificate of authority granted by the State Board of Insurance or the commissioner and that violates this code to the sanctions authorized under Section 7, Article 1.10, of this Code.

(k) Provides a maximum civil penalty of \$10,000 for each willful or knowing violation of this article regarding the reporting of transactions or investments. Requires the commissioner to consider the appropriateness of the penalty with respect to the gravity of the violation, the history of previous violations, and any other pertinent matters.

SECTION 8.05. Amends Sections 6A, 10, 12, 13, and 14, Article 21.49-1, Insurance Code, as follows:

Sec 6A. VALUATION OF INVESTMENT IN A SUBSIDIARY OR AFFILIATE.

(a) Makes conforming changes. Deletes certain language regarding the valuation of investment in a subsidiary or affiliate.

(b) Redesignates existing Subsection (c) into this subsection.

(c)-(f) Reletter the subsections.

Sec. 10. CONFIDENTIAL TREATMENT. Makes conforming changes. Grants access to confidential information pursuant to Sections 3 and 9 to authorized law enforcement officials, any district attorney of this state, the attorney general, and any grand jury, performing their respective duties.

Sec. 12. INJUNCTIONS: PROHIBITIONS AGAINST VOTING SECURITIES: SEQUESTRATION OF VOTING SECURITIES. Makes conforming changes. Deletes references to shareholders.

Sec. 13. CRIMINAL PROCEEDINGS. (a) Provides for fines of up to \$50,000 per violation, in addition to any civil or administrative penalty for any insurer willfully violating this article. Provides that any person willfully violating this article may be fined, in that person's individual capacity, up to \$10,000 per violation, in addition to any civil or administrative penalty, or if such willful violation involves deliberate perpetration of a fraud upon the department, an insurer, any subsidiary or policyholders, that individual may be imprisoned for up to five years or both. Makes conforming changes in the language.

(b) Provides for fines of up to \$10,000 per violation, imprisonment, or subjection to the penalties provided by Article 21.47 of this code, for false statements. Requires fines to be paid by the violator in that person's individual capacity.

Sec. 14. RECEIVERSHIP. Makes conforming changes.

ARTICLE 9. PUBLIC REPRESENTATION

SECTION 9.01. Amends Chapter 1, Insurance Code, by adding Article 1.35C, as follows:

Art. 1.35C. PUBLIC REPRESENTATION. (a) Requires at least one-half of the membership of each advisory body appointed by the board or the commissioner to represent the general public.

(b) Prohibits certain persons from serving as a public representative.

SECTION 9.02. Amends Sections 6A(b) and (c), Article 1.14-2, Insurance Code, as follows:

(b) Requires the stamping office to exercise its powers through a board of directors established under Subsection (c). Adds language that includes surplus lines insurers in evaluation of eligibility.

(c) Requires the stamping office board of directors to consist of nine members who serve terms as stated in the plan of operation. Requires at least four of the members to represent the general public. Sets forth persons who are prohibited from being a public representative.

SECTION 9.03. Amends Section 5(d), Article 1.14-3, Insurance Code, to require the election of nine directors, with four of those members to represent the public interest.

SECTION 9.04. Amends Section 4(a) and (c), Article 3.77, Insurance Code, as follows:

(a) Provides that the pool is governed by a board of directors composed of nine, instead of 12, members.

(b) Provides for the composition of the board.

SECTION 9.05. Amends Section 14(b)(1), Article 9.48, Insurance Code, (Texas Title Insurance Guaranty Act), to increase the number of directors from seven to nine. Requires four directors to be public representatives. Increases the staggered term from 4 years

to 6 years. Provides that the terms of four members expire each odd-numbered year.

SECTION 9.06. Amends Sections 36(a) and (b), Article 20A.36, V.T.C.S., as follows:

(a) Substitutes "commissioner of insurance" for "State Board of Insurance." Deletes language regarding committee composition. Provides for the membership of the committee. Sets forth conditions of ineligibility for membership.

(b) Requires reports regarding health maintenance organizations to be provided to the committee at meetings. Provides for the confidentiality of information secured in meetings, and provides for the filing and reporting of reports.

SECTION 9.07. Amends Section 9, Article 21.07-4, Insurance Code, to provide that the advisory board is composed of nine members instead of five. Requires four members to be representatives of the general public. Sets forth persons who are prohibited from being a public representative.

SECTION 9.08. Amends Section 5c, Article 21.14, Insurance Code, as follows:

Sec. 5c. ADVISORY COUNCIL. (a) Creates this subsection from existing text. Provides that the advisory council has nine members.

(b) Requires four of the members of the advisory council to be composed of representatives of the general public. Prohibits certain persons from being public representatives.

SECTION 9.09. Amends Section 14B(1), Article 21.28-C, Insurance Code (Texas Property and Casualty Insurance Guaranty Act), to increase the number of directors from eight to nine. Requires five members to be representatives of the general public. Prohibits certain persons from being public representatives.

SECTION 9.10. Amends Section 7(1), Article 21.28-D, Insurance Code (Life, Accident, Health and Hospital Service Insurance Guaranty Association Act), to requires four members to be representatives of the general public. Provides for six year staggered terms, with the terms of four members expiring each odd numbered year. Prohibits certain persons from being public representatives.

SECTION 9.11. Amends Section 6, Article 12.49-3, Insurance Code, as follows:

Sec. 6. DIRECTORS. (a) Creates this subsection. Provides that they are to be selected, instead of elected. Sets forth the required composition.

(b) Provides that members of the association's board of directors take office on October 1 each year. Deletes outdated language.

SECTION 9.12. (a) Effective date for Section 9.12A: September 1, 1991.

(b) Provides the deadline for appointments of members, and provides for the expiration of terms of existing members.

SECTION 9.13. Amends Section 6, Article 21.49-3C, Insurance Code, as follows:

Sec. 6. BOARD OF DIRECTORS.

(c) Requires four directors to be members of the general public. Makes a conforming change.

(d) Requires some directors to be representatives of the insurance industry.

(e) Prohibits certain persons from being public representatives.

SECTION 9.14. Amends Sections 6(a) and (b), Insurance Code, as follows:

(a) Requires at least four of the members of the board to be representatives of the general public. Prohibits certain persons from being public representatives.

(b) Provides for the terms of office of the board.

ARTICLE 10. MOTOR VEHICLE SAFETY RESPONSIBILITY

SECTION 10.01. Amends Chapter 88, Article 6675a-1, V.T.C.S. by adding Section 2a, as follows:

Sec. 2a. (a) Provides that the owner of a motor vehicle must submit with the application for registration evidence of financial responsibility that is currently valid.

(b) Provides that the county tax collector may not register the motor vehicle if the owner fails to submit evidence of financial responsibility.

(c) Provides for examination of the evidence of financial responsibility by the county tax collector.

(d) Lists evidence satisfying the requirement of this section.

(e) Provides for a statement to be issued to the person registering the vehicle, that the vehicle may not be operated unless minimum coverage is obtained.

(f) Provides that failure of a person to submit evidence of financial responsibility and refusal of the tax collector to register the vehicle does not make the county tax collector liable.

(g) Grants immunity from liability to the county, the county tax collector, a deputy county tax collector, and any person acting for such entities, for registering a motor vehicle under this section.

(h) Provides that this section does not prohibit registration by mail.

SECTION 10.02. Amends Section 6, Article 6687b, V.T.C.S., by adding Subsection (c), as follows:

(c) Requires an application for an original or renewal driver's license to be accompanied by evidence of financial responsibility or a statement that the applicant does not own a motor vehicle for which maintenance of financial responsibility is required. Outlines procedures.

SECTION 10.03. Amends Section 140(a), Article 6701d, V.T.C.S. (Uniform Act Regulating Traffic on Highways), as follows:

(a) Requires the owner or operator, at the time of inspection, to furnish evidence of financial responsibility. Authorizes the evidence of financial responsibility to be shown in the manner specified under Section 1B(b), Article 6701h, V.T.C.S. Prohibits an inspection certificate from being issued for a vehicle for which the owner or operator fails to furnish the required evidence of financial responsibility. Exempts an inspection facility or station from liability to any person for issuing an inspection certificate based on evidence of financial responsibility submitted to the facility or station. Authorizes the inspection facility or station to rely on an oral binder if the inspection facility or station is the seller of the motor vehicle.

SECTION 10.04. Amends Section 1B(b), Article 6701h, V.T.C.S. (Texas Motor Vehicle Safety-Responsibility Act), to outline evidence of financial responsibility. Adds a liability policy in at least the minimum amounts. Requires the address of each insured and the make and model of each covered vehicle. Provides that certain other certificates satisfies the requirements of evidence of financial responsibility.

SECTION 10.05. Amends Section 1C(a), Article 6701h, V.T.C.S. (Texas Motor Vehicle Safety-Responsibility Act), as follows:

Sec. 1C. (a) Provides that operation of a motor vehicle in violation of Section 1A of this Act is a misdemeanor punishable by a fine of between \$175 and \$350. Increases the penalty for a person who has been previously convicted of an offense to a fine of between \$350 and \$1,000. Provides for a reduction of the fine for a first offense in the case of economic hardship.

SECTION 10.06. Amends Section 1F, Article 6701h, V.T.C.S. (Texas Motor Vehicle Safety-Responsibility Act), by adding Subsections (c), (d), (e), (f), and (g), as follows:

(c) Requires the court to order impoundment of the motor vehicle upon a second or subsequent conviction for an offense under Section 1C(a)(1) of this Act. Provides for impoundment for a duration of 180 days. Requires the sheriff of the county of court jurisdiction to impound the vehicle. Requires the court to impose a cost of \$15 a day for the impoundment expense.

(d) No transfer of the impounded vehicle is authorized unless the court permits it. If title is transferred by foreclosure, sale on execution, cancellation of a conditional sales contract, or judicial order, the court must order release of the vehicle.

(e) Requires the defendant to apply to the court for release of the impounded vehicle and submit evidence of financial responsibility. Provides for time limits for coverage.

(f) Lists the evidence satisfying requirements of Subsection (e) of this section.

(g) Requires a vehicle to be released by the sheriff upon receipt of a release from the court and payment of the costs of impoundment.

SECTION 10.07. Amends Section 4.202(a), Article 6702-1, V.T.C.S. (County Road and Bridge Act), as follows:

(a) Requires each county tax assessor-collector, as compensation for services under the laws relating to the registration of vehicles, to receive a uniform fee of \$1.90, instead of \$1.50, for each of the receipts issued each year pursuant to those laws.

SECTION 10.08. Amends Section 1D-2, Article 6701h, V.T.C.S., as follows:

Sec. 1D-2. Makes a conforming change to this section, which provides a defense to prosecution of a charge of failure to maintain financial responsibility, to refer instead to a defense to prosecution of an offense under Section 1C(a)(1) of this Act.

SECTION 10.09. Amends Section 1F(a), Article 6701h, V.T.C.S., follows:

Sec. 1F. (a) Makes a conforming change to this section, which provides for a second or subsequent conviction of failure to maintain financial responsibility, to refer instead to such conviction of an offense under Section 1C(a)(1) of this Act.

SECTION 10.10. Amends Section 1H, Article 6701h, V.T.C.S., as follows:

Sec. 1H. NOTICE OF LICENSE SUSPENSION. (a) Makes technical and conforming changes. Changes the language of the citation to read "A second or subsequent conviction of an offense under the Texas Motor Vehicle Safety-Responsibility Act."

(b) Makes a conforming change.

SECTION 10.11. Amends Section 24(a), Article 6701h, V.T.C.S., as follows:

(a) Requires the Department, on filing of a valid bond, to issue to the person named as principal in the bond a certificate of compliance with this section.

ARTICLE 11. MISCELLANEOUS AND CONFORMING AMENDMENTS

SECTION 11.01. Amends Section 3.70(a), Article 8308-3.70, V.T.C.S. (Texas Worker's Compensation Act), to delete office of consumer protection and add public insurance counsel.

SECTION 11.02. Amends Article 1.15A, Insurance Code, as follows:

Sec. 3. DEFINITIONS. Redefines "accountant." Deletes the definition of audited financial report. Makes conforming changes, renumbers sections.

Sec. 4. New title: EXEMPTION. (a) Authorizes an insurer otherwise subject to this article that has less than \$1 million in direct premiums written in this state during a calendar year or that has less than a total 1,000 policyholders and certificate holders at the end of a calendar year, except as provided by Subsections (b) and (c) of this section, to submit an affidavit that specifies the amount of direct premiums written and its total number of policyholders and certificate holders, in lieu of the annual examination required by this article for that calendar year, and requires such insurer to be exempt from the audit required by this article.

(b) Authorizes the commissioner to require an insurer that is exempt under Subsection (a) of this section to comply with this article if the commissioner finds that the insurer's compliance is necessary for the commissioner to fulfill the commissioner's statutory responsibilities. Requires this subsection to not apply to an fraternal benefit society qualifying for an exemption under Subsection (a) and that has not direct premiums written in this state for accident and health insurance during a calendar year. Deletes language regarding an affidavit.

(c) Provides that an insurer that has assumed premiums of \$1 million or more under reinsurance agreements is not exempt under Subsection (a) of this section.

Sec. 5. EXEMPTION FOR INSURERS UNDER SUPERVISION OR CONSERVATORSHIP. Deletes this section.

Sec. 6. EXEMPTION FOR INSURERS FILING AUDITS IN ANOTHER STATE. (a) Allows a foreign or alien insurer in another state to be exempt under certain listed circumstances.

(b) Sets certain filing requirements.

Sec. 7. FINANCIAL HARDSHIP EXEMPTION. (a) Deletes references to a financial hardship examination.

(b) Authorizes the commissioner, with an exception, to grant an exemption under this section if the commissioner finds, after review of the application, that compliance with this rule would constitute a severe financial or or-

ganizational hardship on the insurer. Provides that an exemption may be granted at any time and from time to time for a specified period or periods.

(c) Provides exceptions to Subsection (b).

(d) Authorizes an insure that is aggrieved by a determination of the commissioner under this section to appeal that determination under Article 1.04 of this code.

Deletes existing Section 7.

Sec. 8. BOARD'S AUTHORITY. Allows the board to perform an examination of any insurer. This article does not prohibit or limit this authority.

Sec. 9. FILING AND EXTENSIONS FOR FILING OF ANNUAL AUDITED FINANCIAL REPORTS. (c) Allows the commissioner to require an insurer to file the audited financial report before June 30, upon notification at least 90 days before the report filing date.

(d) Requires the commissioner to order an audit at the cost of the insurer, if the insurer fails to comply with this article. Provides for amounts collected under this section.

Sec. 10. CONTENTS OF AUDITED FINANCIAL REPORT. (b) Adds "a statement of cash flows" to the list of what the audited financial report must include. Deletes "changes in financial position."

(c) Adds language that requires the report to include any notes required by the NAIC annual statement instructions or by generally accepted accounting principles. Requires a summary of ownership of the insurer and the relationship of the insurer to any affiliated company.

(e) Sets forth filing requirements for insurers who did not retain an independent CPA to perform an annual examination for the previous year.

Sec. 10A. CANADIAN OR BRITISH INSURERS. (a) As added, provides that an insurer domiciled in Canada or the United Kingdom may file the annual statement on the form filed by the company in the country of domicile.

(b) Requires the accountant to register under Section 11(a) of this article along with a statement of knowledge of this article and agreement of conformity to same.

Sec. 11. DESIGNATION OF ACCOUNTANT. (b) Requires the registration to be accompanied by a statement signed by the accountant showing knowledge of requirements of this article.

(c) & (d) Reletter subsections and make conforming changes.

Sec. 12. QUALIFICATIONS OF ACCOUNTANT. (a) Sets out standards required for acceptance of an audited financial report from an accountant and required certifications.

(b) Limits the number of consecutive years a partner or other responsible party may render a report for an insurer to seven years. The limitation does not apply if it would be unfair because of unusual circumstances. Sets forth standards which the commissioner may consider.

(c) Prohibits the commissioner from accepting an audited financial report from certain individuals.

(d) Allows the commissioner to hold a hearing to determine if an accountant is qualified and independent, and to rule on such qualification and independence.

(e) Allows the commissioner to order an insurer to replace an accountant ruled not qualified or independent.

Sec. 12A. REDESIGNATION OR DISMISSAL OF ACCOUNTANT. (a) Requires the insurer to notify the department of the resignation or dismissal of the accountant who signed an audited financial report. Specifies time for such notice.

(b) Requires the insurer to file a written statement within the specified time advising the commissioner of any relevant disagreements between the company and the accountant, including information concerning the resolution of the disagreements.

(c) Requires the insurer to file a written request or a statement obtained from the accountant stating the accountant's agreement or disagreement with the insurer's statement.

Sec. 13. CONSOLIDATED OR COMBINED AUDITS. (a) Allows filing of audited combined or consolidated financial statements in certain circumstances.

(b) Makes conforming changes. Applies to a qualified accountant.

(c) Makes conforming changes. Deletes former Subsection (d).

Sec. 14. SCOPE OF ACCOUNTANT'S EXAMINATION AND REPORT. (b) Deletes language that refers to other procedures that the accountant considers necessary. Requires consideration be given to certain other procedures.

(c) Deletes this subsection.

Sec. 15. NOTIFICATION OF ADVERSE FINANCIAL CONDITION. (a) Requires an insurer to require the accountant to notify the board of directors or the audit committee of the insurer upon certain listed determinations.

(b) Provides that the insurer must furnish a copy of the accountant's written notice. Provides for further notice of same to accountant and commissioner.

(d) States that an accountant is not liable for a statement made under Subsections (a) and (b), if such statement is made in good faith.

Sec. 16. New title: REPORT OF SIGNIFICANT DEFICIENCIES IN INTERNAL CONTROL. (a) Requires the insurer to submit the required written report of significant deficiencies.

(b) Provides for annual filing of the report.

(c) Provides for the form of the report.

Sec. 16A. ACCOUNTANT'S LETTER OF QUALIFICATIONS. (a) Requires the audited report to be accompanied by a letter from the accountant. Sets forth the requirements of the letter.

(b) Does not prohibit the accountant from using any appropriate staff.

Sec. 17. DEFINITION, AVAILABILITY, AND MAINTENANCE OF ACCOUNTANT WORK PAPERS. (b) Requires the accountant to make work papers and records of communications available for review by the department's examiners. Requires such documentation to be retained no longer than seven years.

(c) Substitutes department for board.

(d) Deletes this subsection.

Sec. 18. REPORTS PREPARED IN ACCORDANCE WITH GENERALLY ACCEPTED ACCOUNTING PRINCIPLES. Deletes this subsection.

SECTION 11.03. Amends Chapter 21E, Insurance code, by adding Articles 21.55, 21.56, 21.57, 21.58, 21.58A and 21.58B, as follows:

Art. 21.55. PROMPT PAYMENT OF CLAIMS

Sec. 1. DEFINITIONS. Defines "claimant," "business day," "claim," "insurer," "notice of claim."

Sec. 2. NOTICE OF CLAIM. (a) Lists actions required by an insurer, no later than the 15th business day after receipt of claim, or 30th business day if the insurer is an eligible surplus lines insurer.

(b) Requires the insurer to make a record if the acknowledgement of the claim is not made in writing.

Sec. 3. ACCEPTANCE OR REJECTION OF CLAIMS. (a) Requires notification of acceptance or rejection and sets time for same.

(b) Provides for notice and time for notice in loss resulting from suspected arson.

(c) Requires reasons for the rejection of a claim.

(d) Requires reasons, if the insurer needs additional time to accept or reject the claim.

(e) Provides time requirement under Subsection (d).

(f) Requires an insurer that delays more than 60 days in settling a claim after all items, statements, and forms are received to pay to the claimant damages and other items as provided for in Section 6 of this articles.

(g) Provides that the requirements of Subsection (f) do not apply if it is determined as a result of arbitration or litigation that a claim received by an insurer is invalid and therefore should not be paid by the insurer.

Sec. 4. PAYMENT OF CLAIMS. Requires payment of a claim within a specified time limit.

Sec. 5. EXEMPTION. Exempts title insurance, fidelity, surety, and guaranty bonds, and marine insurance, except for inland marine insurance governed by Article 5.53 of this code, or for a guaranty association created and operating under Articles 9.48, 21.28-C, or 21.28-D of this code. Provides an exception.

Sec. 6. DAMAGES. Requires the insurer, in all cases where a claim is made pursuant to a policy of insurance and the insurer liable therefor shall not be in compliance with the requirements of this article, to be liable to pay the holder of the policy or the beneficiary making the claim under the policy, in addition to the amount of the claim, 18 percent per annum of the amount of such claim as damages, together with reasonable attorneys fees. Requires such attorneys fees to be taxed as part of the costs of the case.

Sec. 7. CUMULATIVE REMEDIES. Provides that the provisions of this article are not exclusive. Provides that the remedies provided herein are in addition to any other remedy or procedure provided by any other law or at common law.

Sec. 8. LIBERAL CONSTRUCTION. Requires this article to be liberally construed to promote its underlying purpose which is to obtain prompt payment of claims made pursuant to policies of insurance.

Art. 21.56. NOTICE OF SETTLEMENT OF LIABILITY CLAIMS. (a) Applies to casualty insurance, including policies written by a county mutual, Lloyd's or surplus lines insurer, or a reciprocal or interinsurance exchange. Sets forth policies and bonds to which this article does not apply.

(b) Requires the insurer to notify the insured of an initial offer to compromise or settle a claim, by a certain date.

(c) Requires the insurer to notify the insured of settlement of a claim, by a certain date.

(d) Allows the board to adopt rules to implement the article.

(e) Prohibits the provisions of this article from applying to marine insurance other than inland marine insurance governed by Article 5.53.

Art. 21.57. WITHDRAWALS FOR PREMIUM PAYMENTS; PROHIBITED PRACTICES. (a) Defines "account," "financial institution," "insurer," and "person."

(b) Prohibits an insurer receiving automatic premium payments through withdrawal of funds from a person's account from increasing those premium payments to be withdrawn for such insurance coverage unless the insurer notifies the insured in a timely fashion and the insured does not object in writing to the increase.

(c) Provides that this article does not require an insurer to notify the person of an increase in the amount of premium payment if the insurance contract or certificate contains a schedule of increasing premiums when issued, expressly specifies the exact amount of each premium, and specifies the period for which each premium is payable.

(d) Provides that notification as required under this section, for policies paid from an escrow account, must be made at least 60 days before the increase takes effect and that written objection must be received at least 20 days before the increase takes effect.

(e) Provides that this article does not apply to a premium payment increase that is less than \$10.00 or 10% of the previous amount per month.

Art. 21.58. BURDEN OF PROOF AND PLEADING. (a) Provides that this article applies to any insurer doing business in this state, including certain specified insurers.

(b) Provides that the insurer, in any suit brought to recover under a contract of insurance, has the burden of proof as to any avoidance or affirmative defense that must be affirmatively pled under the Texas Rules of Civil Procedure. Provides that any language of exclusion in the policy and any exception to coverage claimed by the insurer constitutes an avoidance or an affirmative defense.

Art. 21.53A. HEALTH CARE UTILIZATION REVIEW AGENTS

Sec. 1. PURPOSE. Sets forth the purpose of this article.

Sec. 2. DEFINITIONS. Defines "administrative procedure act," "administrator," "adverse determination," "board," "certificate," "commissioner," "emergency care," "dental plan," "enrollee," "health benefit plan," "health care provider," "health insurance policy," "nurse," "open meetings law," "open records law," "patient," "payor," "physician," "provider of record," "utilization review," "utilization review agent," "utilization review plan," and "working day."

Sec. 3. CERTIFICATION. (a) Prohibits a utilization review agent from conducting utilization review of health care provided in this state unless the commissioner has granted the utilization review agent a certificate pursuant to this Act.

(b) Authorizes the commissioner to only issue a certificate to an applicant that has met all the requirements of this Act and all applicable rules and regulations of the board.

(c) Provides that a certificate issued under this Act is nontransferable.

(d) Provides for biennial renewal.

(e) Requires the commissioner to promulgate certification and renewal forms to be filed under this section. Sets forth the required content of the form.

(f) Requires the board to establish, administer, and enforce the certification and renewal fees under this section in amounts not greater than that necessary to cover the cost of administration of this article.

(g) Requires a utilization review agent to report material changes in information within 30 days.

Sec. 4. STANDARDS FOR UTILIZATION REVIEW. (a) Requires a utilization review agent to maintain compliance with the provisions of this section.

(b) Requires the utilization review plan to be reviewed by a physician and conducted in accordance with standards developed with input from appropriate health care providers and approved by a physician.

(c) Requires personnel employed by or under contract with a utilization review agent to perform utilization review to be appropriately trained and qualified.

(d) Prohibits a utilization review agent from setting or imposing any notice or other review procedures contrary to the requirements of the health insurance policy or health benefit plan.

(e) Prohibits a utilization review agent from observing, participating in, or otherwise being present during a patient's examination, treatment, procedure, or therapy, unless approved for an individual patient by the provider of record or modified by contract.

(f) Prohibits a utilization review agent from permitting or providing compensation or any thing of value to its employees or agents, condition employment of its employee or agent evaluations, or set its employee or agent performance standards, based on standards which are inconsistent with the provisions of this article.

(g) Authorizes a health care provider to designate one or more individuals as the initial contact or contacts for utilization review agents seeking routine information or data.

(h) Requires utilization review conducted by an agent to be under the direction of a physician licensed to practice medicine in the United States.

(i) Requires each utilization review agent to utilize written medically acceptable screening criteria and review procedures which are available for review and inspection by the commissioner.

(j) Prohibits an agent from engaging in unnecessary or unreasonable repetitive contacts with the health care provider or patient.

(k) Requires a reasonable opportunity to be afforded to a health care provider to discuss the plan of treatment for a patient and the clinical basis for the utilization review agent's decision.

(l) Requires a utilization review agent to reimburse health care providers for the reasonable costs of providing medical information.

(m) Requires a utilization review agent to establish and maintain a complaint system that provides reasonable procedures for the resolution of written complaints initiated by enrollees, patients, or health care providers concerning the utilization review and to maintain records of such written complaints for two years from the time the complaints are filed.

(n) Authorizes the utilization review agent to delegate utilization review to qualified personnel in the hospital or health care facility where the health care services were or are to be provided.

Sec. 5. NOTICE OF DETERMINATIONS MADE BY UTILIZATION REVIEW AGENTS. (a) Requires an agent to notify the enrollee of a determination made in review.

(b) Specifies that such notification must be initiated within two days after all the information necessary to complete the review is received by the agent.

(c) Sets forth information the notification must include in the event of an adverse determination.

(d) Sets forth deadlines for and methods of notification of an adverse determination required by this section.

Sec. 6. APPEAL OF ADVERSE DETERMINATIONS OF UTILIZATION REVIEW AGENTS. (a) Requires an agent to maintain and make available a written description of an appeal procedure of an adverse determination.

(b) Requires the procedures for appeals to be reasonable, and sets forth the contents of the procedures.

Sec. 7. TELEPHONE ACCESS. Requires that agents have staff available on a toll-free telephone 40 hours per week, and a telephone system to accept or record calls at time other than normal working hours. Requires that such calls be returned within two working days.

Sec. 8. CONFIDENTIALITY. (a) Requires agents to preserve the confidentiality of medical records and other patient, physician and health care provider data.

(b) Prohibits disclosure of individual medical records without patient written consent.

(c) Prohibits agents from publishing data that identifies a particular physician without prior written notice to the provider.

(d) Provides for destruction of information by the agent when the agent determines the information is no longer needed.

(e) Requires data to be maintained by the agent in a confidential manner which prevents unauthorized disclosure to third parties.

Sec. 9. VIOLATIONS. (a) Requires the commissioner, if the commissioner believes that an agent has violated or is violating this article, to notify the agent of the alleged violation and compel the production of any and all relevant documents.

(b) Authorizes the commissioner to initiate the proceedings under this section after the 30th day after the date the commissioner notifies the agent as required by Subsection (a) of this section.

(c) Provides that proceedings under this article are a contested case for the purposes of Article 6252-13a, V.T.C.S. (Texas Administrative Procedure and Texas Register Act).

(d) Sets forth authorized activities of the commissioner if the commissioner determines that the utilization review agent has violated or is violating any provision of this article.

Sec. 10. UNLAWFUL AND PROHIBITED PRACTICES; PENALTIES. Provides that performing utilization review without a certificate is a Class A misdemeanor. Requires the person to be punished for a third degree felony if it is shown by trial that the person or entity has been convicted once before of a violation.

Sec. 11. CLAIMS REVIEWS OF MEDICAL NECESSITY. (a) Requires a review of medical necessity to be based on written screening criteria established and periodically updated with involvement by physicians and providers, and requires the payor's system for such retrospective review to be under the direction of a physician.

(b) Requires the provider, when an adverse determination is made based on a retrospective review of medical necessity, to have the opportunity to appeal the determination in the same manner as the enrollees, with the enrollee's consent.

Sec. 12. LISTS OF UTILIZATION REVIEW AGENTS. Requires the commissioner to maintain a list of certified agents and to provide the list to anyone upon request.

Sec. 13. AUTHORITY TO ADOPT RULES. Authorizes the board to adopt rules and regulations to implement the provisions of this Act. Provides for an advisory committee to advise the board in developing rules and regulations.

Sec. 14. APPLICATION. Sets forth the scope of this article.

Art. 21.58B. (a) Prohibits a member or employee of the Board of Chiropractic Examiners from acting as a consultant for any insurance company or business, individual or utilization review agent that audits chiropractic claims, charges, or services. Defines "consultant."

(b) Requires the board to conduct a study of the need for any additional, reasonable standards with regard to the retrospective review of medical necessity with particular consideration of the requirements of law with regard to prompt, fair, and equitable settlement of claims; the feasibility of accepting certification by a national utilization review accreditation organization as a method of meeting the Section 3 certification requirements of this Act; and the need for any reasonable requirements for cooperation by all parties with the utilization review process.

(c) Requires such study to provide for input from all interested parties.

(d) Requires the findings and recommendations to be reported to the 73rd Legislature.

SECTION 11.04. Amends Section 9, Article 20A.09, V.T.C.S., by adding Subsection (i), as follows:

(i) Provides that Article 21.55 of this code applies to out-of-area or emergency claims for which benefits are not assigned or payment is not made directly to the physician or provider.

SECTION 11.05. Amends Sections 7, 7A, 9, 11, and 15, Article 21.28-C, Insurance Code, as follows:

Sec. 7. ASSESSMENTS. (a) Creates this section from existing language.

(b) Creates this section from existing language. Makes conforming changes.

(c) Makes a conforming change.

(d) Makes a conforming change.

(e) Exempts impaired insurers from assessment from and after being so designated.

(f) Creates this subsection from existing text.

(g) Creates this subsection from existing text.

Sec. 7A. PURPOSE OF ASSESSMENT. (a) Creates this subsection from existing text. Provides that assessments made under this article are in addition to marshaling of assets under Article 21.28 of the code.

(b) New language stating that the section does not require the receiver to exhaust the assets of the impaired insurer before an assessment is made.

Sec. 9. ACCOUNTING FOR AND REPAYMENT OF ASSETS. (a) Creates from existing language and makes a nonsubstantive change.

(b) Creates this section from existing language.

(c) Creates this section from existing language.

Sec. 11. APPROVAL OF COVERED CLAIMS. Adds language giving the receiver discretion to modify a rejection or approval of a covered claim. Allows the receiver to use funds from the association to pay a covered claim prior to processing all claims.

Sec. 15. RECOGNITION OF ASSESSMENTS IN PREMIUM TAX OFFSET. Provides that 100 percent of any assessment shall be allowed as a credit against the premium tax under Article 4.10. Allows the tax credit at a rate of 10 percent per year for ten successive years following the date of assessment. Allows the balance of tax credit not claimed in a particular year to be reflected as an admitted asset.

SECTION 11.06. Amends Section 5(9), Article 21.28-D, Insurance Code, as follows:

Sec. 5. (9) Amends the definition of "premiums."

SECTION 11.07. Amends Section 19(1), Article 21.28-D, Insurance Code, as follows:

Sec. 19. (1) Deletes language pertaining to assessment percentages. Provides that the percentage is to be 100 percent for the calendar year of issuance, reduced by 10 percent a year for each year thereafter for a period of 10 years.

SECTION 11.08. Amends Subsection (a), Article 21.28-E, to exempt a fidelity, surety, or guaranty bond that is not covered by a solvency protection arrangement from the requirement that a statement be affixed to a policy.

SECTION 11.09. Amends Section 15, Article 21.21, Insurance Code, as follows:

Sec. 15. INJUNCTIONS. (a) Allows the Attorney General to bring action against the person to restrain by injunction without a board request.

(c) Authorizes increase in amount of civil penalty per violation from \$2,000 to \$10,000.

(d) Deletes language concerning 2 year limitation.

(e) Provides for a civil penalty of not more than \$10,000 per violation. Deletes reference to not to exceed \$50,000.

(f) Provides that remedies are not exclusive and are in addition to remedies available by any other law. Deletes previous language.

SECTION 11.10. Amends Chapter 21B, Insurance Code, by adding Article 21.21B, as follows:

Art. 21.21B. UNFAIR COMPETITION AND UNFAIR PRACTICES BY CERTAIN INSURERS. (a) Prohibits a risk retention group or purchasing group from engaging in unlawful trade practices under Article 21.21 of this code.

(b) Requires a risk retention group or purchasing group to be subject to all of the provisions of Article 21.21 of this code and to the rules and regulations adopted under Article 21.21 of this code.

SECTION 11.11. Amends Section 1, Article 21.28-A, Insurance Code, as follows:

Sec. 1. PURPOSE AND FINDINGS. Provides that where rehabilitation or conservation would be inefficient or impracticable, the board is directed to promulgate rules that encourage the merger of insurers in weak financial condition with insurers in strong financial condition. Prohibits the rules and procedures authorized for conservatorship from being employed without first following the rules and procedures promulgated to promote the merger of insurers in weak financial condition. Makes conforming changes.

SECTION 11.12. Amends Section 2, Article 21.21-2, Insurance Code,

Sec. 2. PROHIBITED PRACTICES. Prohibits any insurer from engaging in unfair claim settlement practices. Deletes frequency requirements.

SECTION 11.13. Amends Section 3, Article 21.21-2, Insurance Code, to delete language specifying that an insurer who "is substantially out of line" should be subjected to closer supervision by the State Board of Insurance.

SECTION 11.14. Amends Article 21.07, Insurance Code, by adding Section 10A, as follows:

Sec. 10A. INELIGIBILITY BASED ON FELONY CONVICTION. (a) Provides that except as provided by Subsection (c), the department is prohibited from issuing a license to operate as an insurance agent to a convicted felon, whose felony involved moral turpitude or breach of a fiduciary duty.

(b) Provides for revocation of an insurance agent's license.

(c) Provides for the right to petition the commissioner for issuance or reinstatement of the license.

(d) Limits the time when a petition for issuance or reinstatement may be made. Allows the board to adopt rules setting forth the contents of the petition.

(e) Allows the commissioner to grant the petition under certain circumstances.

SECTION 11.15. Amends Chapter 1, Insurance Code, by adding Article 1.14A, as follows:

Art. 1.14A. INELIGIBILITY FOR CERTIFICATE OF AUTHORITY BASED ON FELONY CONVICTION. (a) Provides that, except as provided by Subsection (c) of this section, certificates of authority are prohibited from being issued to an insurance company if a corporate officer or a member of the board of directors has been convicted of a felony involving moral turpitude or breach of fiduciary duty.

(b) Provides for revocation of a certificate of authority.

(c) Provides for the right to petition the commissioner for issuance or reinstatement of the certificate.

(d) Limits the time when a petition for issuance or reinstatement may be made. Allows the board to adopt rules setting forth the contents of the petition.

(e) Allows a petition when a convicted officer or director is no longer serving in that capacity.

(f) Allows the commissioner to grant the petition under certain circumstances.

SECTION 11.16. Amends Section 3(c), Article 21.28, Insurance Code, as follows:

Sec. 3. (c) Allows a receiver to accept a proof of claim on a form used for proof of claim by the insurer before the receivership or prepared or accepted by the domiciliary receiver or a guaranty fund of another state, if the Texas receiver is the ancillary receiver. Requires that a proof of claim be filed under oath, unless the oath is waived by the receiver in his sole discretion. Makes nonsubstantive changes.

SECTION 11.17. Amends Chapter 21, Insurance Code, by adding Article 21.35B, as follows:

Art. 21.35B. PERMISSIBLE PAYMENTS. (a) Prohibits a payment from being solicited or collected by an insurer, its agent, or sponsoring organization in connection with an application for insurance or the issuance of a policy other than premiums, taxes, finance charges, policy fees, agent fees, service fees, inspection fees, or membership dues in a sponsoring organization.

(b) Provides that criminal penalties for violation of this article are as provided for under Section 13, Article 21.49-1, of this code.

SECTION 11.18. Amends Section 17.47(a), Business and Commerce Code, to delete language pertaining to the consumer protection division bringing actions against insurers and insurance agents without board action or giving notice to board.

SECTION 11.19. Amends Section 17.60, Business and Commerce Code, to delete language pertaining to inapplicability of this section.

SECTION 11.20. Amends Section 17.61(a), Business and Commerce Code, to delete language pertaining to inapplicability of this section.

SECTION 11.21. Amends Section 8(b), Article 1.14-2, Insurance Code, to prohibit a surplus lines agent from placing coverage with an unauthorized insurer unless the insurer meets eligibility requirements set out in this section and the stamping office provides

evidence that the insurer has met the requirements. Deletes outdated requirement dates.

SECTION 11.22. Amends Section 12, Article 21.28, Insurance Code, by adding Subsections (d)-(g), as follows:

Sec. 12. (d) Requires an annual audit of the liquidator by the State Auditor.

(e) Sets forth the contents of the auditor's report.

(f) Specifies the manner of filing the auditor's report.

(g) Allows a court-ordered audit of the liquidator and outlines the procedures for filing.

SECTION 11.23. Amends Chapter 1, Insurance Code, by adding Article 1.35D, as follows:

Art. 1.35D. TOLL-FREE INFORMATION AND COMPLAINT NUMBER. (a) Requires the department to maintain a toll-free telephone number for complaint resolution purposes.

(b) Sets forth information to be provided through the toll-free number.

(c) Requires a record to be kept of all inquiries and complaints.

(d) Requires the department to develop a system for communicating complaints received to insurers by electronic transmission.

(e) Provides for publication of the number.

(f) Requires each insurer to provide an information bulletin about each policy, including information regarding the toll-free number.

SECTION 11.24. Amends Chapter 21E, Insurance Code, by adding Article 21.71, as follows:

Art. 21.71. INSURER'S TOLL-FREE INFORMATION AND COMPLAINT NUMBER. (a) Sets forth the applicability of this section, with exceptions.

(b) Provides that this article does not apply to an insurer whose gross premium receipts are less than \$2 million a year, or to an insurer with regard to fidelity, surety, or guaranty bonds.

(c) Requires each insurer in this state to maintain a toll-free telephone number for informative and complaint resolution purposes.

(d) Requires each insurer to print on the policy the toll-free number. Allows the board to adopt rules governing the manner in which the number appears on the policy.

SECTION 11.25. Amends Section 14B, Article 21.28-C, Insurance Code, by adding Subdivision (3), to require each director to file a financial statement with the secretary of state.

SECTION 11.26. Amends Section 7, Article 21.28-D, Insurance Code, by adding Subdivision (3), to require each director of the association to file a financial statement with the secretary of state.

SECTION 11.27. Amends Section 14(b), Article 9.48, Insurance Code, by adding Subdivision (3), to require each director of the association to file a financial statement with the secretary of state.

SECTION 11.28. Amends Section 1, Article 7.19-1, V.T.C.S., as follows:

Sec. 1. (a) Creates this subsection from existing text. Makes technical and conforming changes.

(b) Requires written certification from certain surety companies that the company has reinsured the portion of the risk in certain transactions that exceeds 10 percent of the surety company's capital and surplus with one or more reinsurers who are duly authorized and admitted to do business in this state.

SECTION 11.29. Amends Section A, Article 5160, V.T.C.S., as follows:

A. Requires each bond to be executed by a corporate surety or corporate sureties in accordance with Section 1, Article 7.19-1, V.T.C.S.

SECTION 11.30. Amends Chapter 21B, Insurance Code, by adding Article 21.21-5, as follows:

Art. 21.21-5. DISCRIMINATION IN RATES OR RENEWAL. (a) Requires the department to conduct an ongoing study of discrimination on the basis of race, color, disability, geographical location, religion, sex, national origin, or age in the setting or use of rates or rating manuals and in the nonrenewal of policies.

(b) Authorizes the board, on the basis of the department study, to adopt rules to end discrimination on the basis of race, color, religion, geographical location, or national origin, and, to the extent not justified by sound actuarial principles, on the basis of disability, sex, or age, in the setting or use of rates or rating manuals and in the nonrenewal of policies.

SECTION 11.31. Amends Section 2, Article 21.48A, Insurance Code, by adding Subsection (e), to subject a lender to the payment of a substitution fee, which may not be charged to the borrower, upon the sale or transfer of its ownership interest in real or personal property.

SECTION 11.32. Amends Chapter 21E, Insurance Code, by adding Article 21.79E, as follows:

Art. 21.79E. ACTION FOR AMOUNT OF DEDUCTIBLE. (a) Sets forth the scope of this article.

(b) Requires an insurer to bring an action to recover the deductible against a third party, if the third party is liable to the insurer or the insured for the amount of the deductible, not later than six months after the date the claim is made or pay the deductible to the insured.

(c) Provides that Subsection (b) of this article does not apply if, not later than six months after the date the claim is made, the insurer notifies the insured in writing that the insurer will not bring an action against the third party and authorizes the insured to bring the action.

(d) Provides that this article applies whether the third party who may be liable for the amount of the deductible is insured or uninsured.

SECTION 11.33. Amends Section 24.08, Insurance Code, as follows:

Sec. 24.08. (b) Deletes certain language, to make nonsubstantive changes.

(c) Authorizes the board or any person designated by it, in addition to the penalties set in Subsections (a) and (b), to order sanctions as provided by Article 1.10, Section 7, Insurance Code, and to issue cease and desist orders as provided by Article 1.10A, Insurance Code.

SECTION 11.34. Amends Section 3(d), Article 21.49, Insurance Code, as follows:

(d) Redefines "Texas windstorm and hail insurance."

SECTION 11.35. Amends Article 21.49, Insurance Code, by adding Section 8A, as follows:

Sec. 8A. REPLACEMENT LOSS COVERAGE. (a) Provides for replacement cost coverage for certain dwellings.

(b) Provides that if, at the time of loss, the total amount of insurance applicable to the dwelling is equal to 80 percent or more of the full replacement cost of the dwelling or equal to the maximum amount of insurance otherwise available through the Association, coverage applicable to the dwelling under the policy is extended to include the full cost of repair or replacement, without a deduction for depreciation. Prohibits liability for loss under the policy from exceeding the replacement cost of that part of the dwelling damaged or destroyed, less depreciation, under certain circumstances.

(c) Authorizes the board to promulgate rules and regulations as necessary to implement this article.

SECTION 11.36. Amends Article 21.49, Insurance Code, by adding Section 8D, as follows:

Sec. 8D. LIABILITY LIMITS. (a) Requires a policy of windstorm and hail insurance issued by the Association under this Act to provide coverage for any one insurable property in certain stated amounts.

(b) Requires liability limits for insurance property that is not covered under Subsection (a) of this section to be established by the plan of operation.

(c) Provides for the adjustment of liability limits for inflation.

(d) Prohibits the board, notwithstanding Subsections (b) and (c) of this section, from adjusting liability limits to amounts lower than the amounts adopted under Subsection (a) of this section.

SECTION 11.37. Amends Article 21.49, Insurance Code, by amending Section 9 and adding Section 9A, as follows:

Sec. 9. APPEALS. Requires a hearing on an act, ruling, or decision of the Association relating to the payment of, the amount of, or the denial of a particular claim to be held, at the request of the claimant, in either the county in which the covered property is located or Travis County. Makes a conforming change. Authorizes the Association, or the person aggrieved by any order or decision of the board, to thereafter appeal to either a District Court of Travis County, Texas, or a District Court in the county in which the covered property is located. Provides that an action brought under this section is subject to the procedures established under Article 1.04(f), Insurance Code.

Sec. 9A. DISPUTES RELATING TO CLAIMS. (a) Authorizes any person insured under this Act who is aggrieved by an act, ruling, or decision of the Association relating to the payment of, the amount of, or the denial of a claim to elect to bring an action, including an action under Article 21.21 of this code, against the Association in a court of competent jurisdiction or to appeal the act, ruling, or decision under Section 9 of this Article. Prohibits a person from proceeding under both Section 9 of this Article and this section for the same act, ruling, or decision.

(b) Provides for venue in a proceeding action against the Association. Provides that venue is only in the District Court of Travis County if the claimant joins the State Board of Insurance as a party to the action.

SECTION 11.38. Amends Section 3(f), Article 21.49, Insurance Code, to amend the definition of "insurable property" to provide that all structures located within those areas designated as units under the federal Coastal Barrier Resources Act and for which construction has commenced on or after July 1, 1991, are not to be considered insurable property.

SECTION 11.39. Amends Section 3, Article 21.49, Insurance Code, by adding Subsections (l), (m), and (n), to define "first tier coastal county," "second tier coastal county," and "seacoast territory."

SECTION 11.40. Amends Section 6A(a), Article 21.49, Insurance Code, as follows:

(a) Provides that roofing materials satisfy the building specifications in the plan of operation if those materials pass the UL Standard 997 or a comparable test certified by the board and are installed as required by the board to promote wind resistance of the materials. Sets forth those structures to be considered insurable property without compliance with the inspection or approval requirements of this section or the plan of operation. Sets forth that which constitutes evidence of previous insurance.

SECTION 11.41. Amends Section 3(c), Article 21.49, Insurance Code, to make a conforming change to the definition of "plan of operation."

SECTION 11.42. Amends Section 5, Article 21.49, Insurance Code, as follows:

Sec. 5. New title: OPERATION OF THE TEXAS CATASTROPHE PROPERTY INSURANCE ASSOCIATION; ASSOCIATION AND BOARD OF DIRECTORS.

(b) Deletes the provisions of this subsection regarding temporary directors and redesignates Subsection (c) in the existing text.

(c) Redesignates Subsection (d) in the existing text. Deletes language regarding the temporary board. Requires the plan of operation of the Association to provide for the efficient, economical, fair, and nondiscriminatory administration of the Association. Requires the board to adopt by rule the plan of operation with the advice of the board of directors of the Association. Provides for changes in the plan of operation. Provides that a change proposed by the Association does not take effect unless adopted by board rule.

(d) Creates this subsection. Deletes outdated language, and requires the plan of operation, in addition to those requirements in the existing text, to include a plan for the equitable assessment of the members of the Association to defray losses and expenses, and other provisions deemed necessary by the board to carry out the purposes of this Act. Makes nonsubstantive changes.

(e) Requires the board to develop programs to improve the efficient operation of the Association, including a program designed to create incentives for insurers to write windstorm and hail insurance voluntarily to cover property located in a catastrophe area, especially property on the barrier islands. Requires the board to implement the incentive program not later than April 1, 1992. Requires the program to be designed in a way that reduces the number of policies that are not written in the voluntary market in catastrophe areas by not less than 10 percent by January 1, 1993, not less than 25 percent by January 1, 1994, and not

less than 40 percent by January 1, 1995, based on the number of risks underwritten by the Association on January 1, 1991. Requires the board to report its results to the legislature on March 1 of each year beginning in 1993. Deletes outdated language.

(f) Creates this subsection from existing text.

(g) Provides that the board of directors of the Association is responsible and accountable to the board. Sets forth the composition of the board of directors.

(h) Provides that members of the board of directors of the Association serve three-year staggered terms, with the terms of three members expiring in the third Tuesday of March of each year. Provides that if an insurer member has served two full terms such insurer is to provide for a reasonable rotation of persons designated by it to serve on the board.

(i) Requires the person appointed as provided by Subsections (g)(2) and (g)(3) of this section to be from different counties.

(j) Requires the board of directors of the Association to elect an executive committee consisting of a chairman, vice-chairman, and secretary-treasurer from its membership. Requires at least one of those officers to be a member appointed under Subsection (g)(2) or Subsection (g)(3) of this section.

(k) Makes technical changes.

(l) Creates this subsection from existing text.

SECTION 11.43. Amends Section 8, Article 21.49, Insurance Code, by amending Subsections (a) and (h), and by adding Subsection (i), as follows:

(a) Prohibits the Association from filing changes that would result in a reduction of coverages or an increase in an applicable deductible.

(h) Prohibits rates, including extended coverage rates, covering noncommercial risks or classes of risks written by the Association before December 31, 1995, from exceeding the benchmark rates promulgated by the board under Chapter 5M, Insurance Code, for noncommercial lines of insurance. Prohibits rates for noncommercial lines of insurance written by the Association on or after December 31, 1991, from exceeding the manual rate promulgated by the board under Chapter 5C, Insurance Code. Requires the board, notwithstanding Article 5.13-2, Insurance Code, to promulgate a manual rate for commercial risks and classes of risks written by the Association in accordance with Chapter 5C, Insurance Code. Provides that Article 5.13-2, Insurance Code, does not apply to the rates of insurance written by the Association. Authorizes the board to make provision requiring catastrophe reserves as part of the premium received on risks or classes of risks located in a catastrophe area and requires the board to approve a catastrophe reinsurance pool or program that is funded through the excess of premium losses in a calendar year. Authorizes the board to approve a catastrophe reinsurance pool funded through assessments of members in the Association.

(i) Requires the board to annually promulgate extended coverage rates developed on an actuarial basis. Requires rates for windstorm and hail insurance to be 90 percent of the extended coverage rates, and be uniform throughout the first tier coastal counties. Requires the catastrophe element of extended coverage rates to be uniform throughout the seacoast territory and be based on all monoline extended loss experience of all regulated insurers authorized to do business in the state for property located in the seacoast territory using

the most recent 30 years' experience available. Prohibits surcharges collected in the past and used in the development of current manual rates from being excluded from future rate development as long as those surcharges were collected during the experience period used by the board.

SECTION 11.44. Amends Article 21.49, Insurance Code, by adding Section 8E, as follows:

Sec. 8E. REINSURANCE STUDY. (a) Requires the board to conduct a study relating to reinsurance coverage for windstorm and hail insurance. Requires the board, through the study, to determine methods to ensure that reinsurance is available on a statewide basis, and authorizes the board to develop other recommendations relating to the efficient provision of reinsurance coverage regarding property and other risks insured through the Association.

(b) Requires the board to report the results of the study to the 73rd Legislature not later than March 1, 1993.

(c) Provides that this section expires March 2, 1993.

SECTION 11.45. Amends Article 21.49, Insurance Code, by adding Section 12A, as follows:

Sec. 12A. LEGAL COUNSEL. Provides that the association is a state agency and requires it to be represented by the attorney general as provided by general law.

SECTION 11.46. Amends Section 1, Article 5.03-2, Insurance Code, by adding Subdivision (17), to define "stolen vehicle recovery system."

SECTION 11.47. Amends Article 5.03-2, Insurance Code, by adding Section 6A, as follows:

Sec. 6A. CATEGORY V DISCOUNT. Allows a Category V discount to be granted for a motor vehicle that qualifies under Category IV and is equipped with a stolen vehicle recovery system.

SECTION 11.48. Amends Subsection (b), Article 1.11, Insurance Code, as follows:

(b) Requires the expense for preparing and furnishing such annual statement and other filings of the National Association of Insurance Commissioners to be that of the insurer. Requires there to be no other costs or expenses of any kind levied, charged, or assessed against the insurer relating to such filings.

SECTION 11.49. Article 19.02A. Authorizes a corporation organized in Texas to act as attorney-in-fact for a reciprocal or inter-insurance exchange, notwithstanding any provision of the Business Corporation Act, to be organized under the Business Corporation Act.

SECTION 11.50. Amends Article 1.16, Insurance Code, as follows:

Art. 1.16. EXPENSES OF EXAMINATIONS; DISPOSITION OF SUMS COLLECTED. (a) Creates this subsection from the existing text.

(b) Requires assessments for the expenses of such domestic examination to be made by the State Board of Insurance upon the corporations or associations to be examined taking into consideration annual premium receipts, and/or admitted assets that are not attributable to 90 percent of Pension Plan Contracts as defined in Section 818(a) of the Internal Revenue Code of 1986, as amended, and/or insurance in force. Makes a conforming change.

(c)-(f) Create subsections from the existing text.

SECTION 11.51. Amends Section 4(d), Article 1.14-2, Insurance Code, to require that an agent seeking to renew a surplus lines license file a completed application, and to clarify that the fee paid is nonrefundable. Shortens the time such a license can be renewed after expiration from two years to 90 days.

SECTION 11.52. Amends Section 7, Article 3.75, Insurance Code, to permit the commissioner to suspend a variable contract insurance agent's license when the agent does not have a valid appointment to represent an insurance company. Prohibits an agent whose license has been revoked from applying for another license before the first anniversary of the revocation, and places the burden on the agent to prove why a previous revocation would not bar new licensing. Requires an agent seeking renewal of such a license to file a completed application and clarifies that the fee paid is nonrefundable. Shortens the time a variable contract license can be renewed after expiration from two years to 90 days. Permits the agent to begin writing policies for an additional insurer on the eighth day following the date the board receives the completed notice and fee.

SECTION 11.53. Amends Article 9.36, Insurance Code, by deleting the requirement that a title insurance company report to the board each year the names and addresses of each of its agents. Requires a completed application to be filed and a nonrefundable fee to be paid in order to renew a license. Deletes the requirement for additional licenses when an agent seeks to represent more than one insurer and provides that the agent seeking to be appointed to represent additional title insurance companies must file a completed appointment application and pay a nonrefundable fee. Permits an agent to begin representing the additional insurer on the eighth day following the date the board receives the completed notice and fee. Deletes duplicative questions from the appointment application, and provides that an appointment need not be renewed, but continues in effect until it is terminated. Moves from Section 2 of Section 3 of this article the requirement that insurers report to the board the termination of an agent and relevant facts relating to the termination, and provides such information is confidential. Confirms that a license continues in force for two years rather than one. Deletes the provision allowing the board to certify continuing education programs.

SECTION 11.54. Amends Section C, Article 9.36A, Insurance Code, to require a completed application to be filed for renewal of such a license, and to clarify that the fee is nonrefundable. Provides that when a license has been expired for not longer than 90 days, it may be renewed by paying the renewal fee and an additional fee. Prohibits a license that has been expired for longer than 90 days from being renewed.

SECTION 11.55. Amends Article 9.42, Insurance Code, to clarify renewal dates and to make clear that the fee paid is nonrefundable. Confirms that a license continues for two years rather than one year, and shortens the time during which an expired license can be renewed from two years to 90 days.

SECTION 11.56. Amends Article 9.44, Insurance Code, to make the statute gender inclusive and to delete duplicative connecting words.

SECTION 11.57. Amends Sections 15(d), (e), and (h), Chapter 20A, Insurance Code, to clarify that a completed application must be filed for renewal of a health maintenance organization agent's license and that the fee paid is nonrefundable. Permits an agent to act for an additional health maintenance organization on the eighth day following the date the board receives the completed notice and fee. Allows the board to suspend the license of an agent who does not have an outstanding valid appointment to represent a health maintenance organization. Shortens the time during which such a license can be renewed after expiration from two years to 90 days.

SECTION 11.58. Amends Sections 15A(d), (e), and (i), Chapter 20A, Insurance Code, to clarify that a completed application must be filed for renewal of a health maintenance organization agent's li-

cense and that the fee paid is nonrefundable. Permits an agent to act for an additional health maintenance organization offering a single health care service plan on the eighth day following the date the board receives the completed notice and fee. Allows the board to suspend the license of an agent who does not have an outstanding valid appointment to represent a health maintenance organization. Shortens the time during which such a license can be renewed after expiration from two years to 90 days.

SECTION 11.59. Amends Article 21.04, Insurance Code, to designate persons who solicit property and casualty insurance as agents of the insurer in a controversy between the insured, his beneficiary, or the insured's dependents and the company. Changes the connecting word from "and" to "or" as it applies to all agents named--both life, accident and health, and property and casualty agents.

SECTION 11.60. Amends Section 2(c) and (d), Article 21.07, Insurance Code, to clarify that each partner in a partnership seeking licensure must be licensed individually as an agent. Makes the article more gender inclusive. Clarifies existing language prohibiting a corporation licensed pursuant to this article from owning an interest in another corporation also licensed pursuant to this article, except when a corporation is a wholly owned subsidiary of a licensee.

SECTION 11.61. Amends Sections 6 and 7, Article 21.07, Insurance Code, to permit a health and accident insurance agent to write for an additional insurer on the eighth day following the date the board receives the completed notice and fee. Allows an appointment to continue until it is terminated and makes technical changes. Requires an agent seeking renewal of such a license to file a completed application and pay a nonrefundable fee. Deletes the requirement that an agent and insurer, when giving the board notice of the insurer's appointing an agent, also list all other insurers the agent is then appointed to represent. Deletes the requirement that an insurance carrier file a certificate each year naming those agents for which the insurer desires to continue its appointment. Shortens the time during which an expired license can be renewed from two years to 90 days. Changes the time for prorating the renewal fee from one year to two years.

SECTION 11.62. Amends Section 10, Article 21.07, Insurance Code, to permit the board to suspend the license of a health and accident insurance agent who does not have an appointment to represent an insurer.

SECTION 11.63. Amends Sections 2, 3A, 4, 9, 10, and 12, Article 21.07-1, Insurance Code, to delete the words "legal reserve," and to make technical changes. Deletes language regarding continuing education. Deletes the requirement that an application state whether the applicant's spouse has been licensed. Clarifies the existing requirement that each person in a partnership seeking licensure must also be individually licensed and specifies that a license may be issued to a general partnership to which the commissioner may issue a license. Requires the renewal to be filed and the fee to be nonrefundable. Deletes the requirement that an insurer certify each year those agents it desires to continue appointing. Shortens the time for renewing an expired license from two years to 90 days. Deletes the requirement that an agent state on the application for renewal whether all or part of his efforts are devoted to acting as a life insurance agent. Allows the board to suspend the license of an agent who does not have an outstanding appointment to represent an insurer.

SECTION 11.64. Amends Sections 5(a) and 5(d), Article 21.07-1, Insurance Code, to include medicare supplement contracts and the obligations and duties of a life insurance agent among the subjects covered on a life insurance agent's written examination. Makes the language more gender inclusive and broadens the definitions of a combination life insurance company and an agent to include those that write monthly ordinary life insurance.

SECTION 11.65. Amends Section 8, Article 21.07-1, Insurance Code, relating to appointment of life insurance agents to represent addi-

tional insurers. It simplifies the article and makes it more gender inclusive and deletes the requirement that an agent and insurer, when giving the board notice of appointing an agent, also list all other insurers the agent is then appointed to represent. The amendment deletes the requirement that the commissioner notify an insurer when an agent it has appointed is subsequently appointed to represent additional insurers. New language permits a licensed agent to act for an additional insurer on the eighth day following the date the commissioner receives the completed notice and fee. The section permits an appointment to continue in effect until it is withdrawn by an insurer.

SECTION 11.66. Amends Section 11(a), Article 21.07-1, Insurance Code, to delete the words "legal reserve" and to delete the obsolete phrase "life insurance commissioner."

SECTION 11.67. Amends Section 4, Article 21.07-3, insurance Code, relating to managing general agents to specify that a license may be issued to a general partnership while the existing statute does not specify the type of partnership to which the commissioner may issue a license. Clarifies the requirement that each partner must be licensed as an agent in order for the partnership to be licensed. The amendment is more gender inclusive than the current article, and it deletes duplicative language. Requires a corporation licensed as a managing general agent to notify the commissioner of any change in its officers, directors, or shareholders.

SECTION 11.68. Amends Section 9, Article 21.07-3, Insurance Code, to be more gender inclusive. Provides that the license expires after two years rather than one. Clarifies that an application must be completed and a nonrefundable fee be paid in order to renew a license and shortens the time during which an expired license can be renewed from two years to ninety days.

SECTION 11.69. Amends Section 11, Article 21.07-3, Insurance Code, by adding Subsection (e), to authorize a managing general agent to begin acting for an additional insurance carrier on the eighth day following the date the commissioner receives the completed notice and fee.

SECTION 11.70. Amends Section 14A, Article 21.07-4, Insurance Code, to allow an insurance adjuster's license to be effective for two years rather than one year and confirms an additional fee for renewal must be paid when the license has expired.

SECTION 11.71. Amends Sections 16(a), (c), (d), and (e), Article 21.07-4, Insurance Code, to provide an insurance adjuster's license expires two years, rather than one year, after the date of issuance. It clarifies that, in order to renew an insurance adjuster's license, a completed application and nonrefundable fee must be filed not later than the expiration date of the existing license and simplifies provisions relating to renewal. The amendment shortens the time during which an expired license may be renewed from two years to ninety days.

SECTION 11.72. Amends Section 17, Article 21.07-4, Insurance Code, relating to insurance adjusters. It makes clear that the commissioner may deny the application of an applicant upon finding the applicant has committed certain acts. The amendment prohibits an applicant whose application has been denied or a licensee whose license has been revoked from applying for a new license until the first anniversary of the effective date of the commissioner's decision and places upon the applicant or licensee the burden of proving why the prior denial or revocation should not bar licensing.

SECTION 11.73. Amends Section 2, Article 21.14, Insurance Code, to define "insurance service representative" and to make nonsubstantive changes.

SECTION 11.73A. Amends Section 7, Article 21.14, Insurance Code, to require the board by rule to apply different examination standards to a solicitor employed as an insurance service representative than those applied to other solicitors.

SECTION 11.73B. Amends Section 3(b), Article 21.14, Insurance Code, to permit the agency to issue a local recording agent's license to a general partnership in its own name provide all partners are active in the partnership. Confirms the prohibition against issuing a license to a general partnership if an inactive partner has an interest. The amendment clarifies language relating to persons who reside in a town through which the state line runs.

SECTION 11.74. Amends Section 5, Article 21.24, Insurance Code, relating to local recording agents, to clarify language and make the section more gender inclusive. Simplifies language requiring that an applicant derive at least 25% of total volume of premiums written from persons other than himself or from property which he controls. Finally, the amendment provides a partnership cannot receive a solicitor's license.

SECTION 11.75. Amends Section 5a(b), Article 21.14, Insurance Code, to correct the name of the American Institute for Property and Liability Underwriters and to simplify the notice placed on the license of one writing exclusively automobile insurance. The amendment also makes the subsection more gender inclusive.

SECTION 11.76. Amends Section 8, Article 21.14, Insurance Code, relating to local recording agents. Requires a completed application to be filed in order to renew a license and that the fee is nonrefundable. The amendment updates the provision regarding prorating of license fees under a staggered renewal system to refer to a two-year term rather than a one-year term. Further, the amendment deletes the provision stating a solicitor's license expires on the same date as the local recording agent's license.

SECTION 11.77. Amends Section 12(a), Article 21.14, Insurance Code, relating to local recording agents to make language more gender inclusive and to permit an agent to begin acting for an additional company on the eighth day following the date the commissioner receives the completed notice and fee.

SECTION 11.78. Amends Section 14, Article 21.14, Insurance Code, to clarify a solicitor's appointment may be terminated by the sponsoring local recording agent or by the solicitor by filing notice with the board and also permits a solicitor to act for a local recording agent on the eighth day following the date the commissioner receives the completed notice and fee.

SECTION 11.79. Amends Section 16, Article 21.14, Insurance Code, to provide for the suspension of a local recording agent's license during the period in which the agent does not have an appointment to represent an insurance company. Requires the license of a solicitor to be suspended when the solicitor's sponsoring recording agent does not have an active appointment. Makes conforming changes. Provides that a license may be revoked if the commissioner makes certain findings. Prohibits an applicant whose application has been denied or a licensee whose license has been revoked from applying for another license before the first anniversary of the effective date of the denial or revocation and places on the applicant or licensee the burden of proving why the prior denial or revocation should not bar new licensing.

SECTION 11.80. Amends Section 20, Article 21.14, Insurance Code, to delete the exemption for traveling representatives of an insurance carrier's home office from the licensing requirements that such notice be sent by certified mail.

SECTION 11.81. Amends Section 8, Article 21.14-1, Insurance Code, to require the filing of a completed application and payment of a nonrefundable fee in order to renew a risk manager's license. Shortens the time during which an expired license may be renewed from two years to ninety days. Authorizes the commissioner to notify the licensee of the impending expiration of a license.

SECTION 11.82. Amends Section 2, Article 21.14-2, Insurance Code, relating to agricultural insurance agents, to require the filing of a completed application and payment of a nonrefundable fee in order to renew a license. Provides for renewal of a license when the re-

quired fees and application are filed not later than 90 days after the expiration date. Requires the commissioner to notify the licensee of the impending expiration of a license.

SECTION 11.83. Amends Subsections (d), (e), (g), and (h), Article 23.23, Insurance Code, relating to agents who solicit legal service contracts, to clarify that a completed application and the nonrefundable fee must be filed in order for an agent to renew a license. Simplifies and makes more gender inclusive the language. Deletes the requirement that the notice of an additional appointment include a listing of all legal service corporations an agent represents. Permits an agent to act for an additional corporation on the eighth day following the date the board receives the completed notice and fee. Requires the board to suspend the license of an agent during any period when the agent does not have an outstanding appointment. Shortens the time during which an expired license may be renewed from two years to ninety days. Brings the provision regarding prorating of fees in line with the two year licensing period.

SECTION 11.84. Amends Article 21.14, Insurance Code, by adding Section 5(d), to provide that the board has sole jurisdiction for matters relating to continuing education of local recording agents.

SECTION 11.85. Requires the board by rule to provide for fees sufficient to defray the cost of administering the Act.

SECTION 11.86. Repeals Subsections (k) and (m), Section 15A, Insurance Code.

SECTION 11.87. (a) Amends Chapter 21C, Insurance Code, by adding Article 21.24-1, as follows:

Art. 21.24-1. ASSIGNMENT OF HEALTH CARE BENEFIT PAYMENTS
Sec. 1. DEFINITIONS. Defines "covered person," "employee benefit," "health care provider," "health care service," "health insurance policy," "insurer," "physician," and "person."

Sec. 2. APPLICATION. Provides for the application of this Act.

Sec. 3. ASSIGNMENT OF BENEFITS. (a) Prohibits an insurer from delivering, renewing, or issuing for delivery a health insurance policy in this state that prohibits or restricts the written assignment by a covered person of benefits provided by the policy for health care services.

(b) Prohibits this section from being construed to require or prohibit insurers from taking certain actions.

Sec. 4. PAYMENT IN CONFORMANCE WITH ASSIGNMENT. (a) Requires a benefit payment to be made by the insurer directly to a physician or other health care provider, if a written assignment of benefits payable for health care services is made by a covered person and is obtained by or delivered to the insurer with a claim for benefits.

(b) Provides that if a written assignment of benefits is made and delivered or obtained as provided by this section, the insurer is relieved of the obligation to pay, and of any liability for paying the benefits for the health care services to the covered person.

(c) Provides that the payment of benefits under an assignment does not relieve the covered person of any contractual responsibility for the payment of deductibles and copayments. Prohibits a physician or other health care provider from waiving copayments or deductibles by acceptance of an assignment.

SECTION 11.88. Amends Article 9.57, Insurance Code, by adding Subsection (d), as follows:

(d) Requires the board to adopt rules and regulations establishing standards and time schedules for implementing and handling claims by title insurance companies as provided in this article.

SECTION 11.89. Amends Section 3, Article 1.14, Insurance Code, to authorize the board to inquire into the competence, fitness, and reputation of any person having control of an insurance carrier. Defines "control" and "person" for the purposes of this section. Makes conforming changes.

SECTION 11.90. Amends Sections 1, 2, and 3, Article 21.52, Insurance Code, as follows:

Sec. 1. Adds a definition for "psychologist."

Sec. 2. Makes a conforming change.

Sec. 3. Makes conforming changes.

SECTION 11.91. Repealer: Article 21.35A, Insurance Code.

SECTION 11.92. Amends Section 3B, Article 21.07-3, Insurance Code, to provide an exception.

SECTION 11.93. Amends Section 3C, Article 21.07-3, Insurance Code, by adding Subsection (f), to require a managing general agent to submit to an examination of its financial condition and to bear the expense of the examination.

SECTION 11.94. Repealer: Article 18.16-1, Insurance Code.

SECTION 11.95. Amends Article 1.11, Insurance Code, by adding Subsection (c), to require the attachment to the annual statement of the opinion of a qualified actuary as to policy reserves and other actuarial items for that agent.

SECTION 11.96. Amends Sections 1 and 2, Article 1.32, Insurance Code, as follows:

Sec. 1. Amends the definition of "insurer."

Sec. 2. Authorizes the commissioner, in certain instances, to suspend or cancel an insurer's certificate of authority. Authorizes the commissioner to use the remedies available under this section in conjunction with the provisions of Article 1.10A of this code when the commissioner determines that the insurer's financial condition is hazardous.

SECTION 11.97. Amends Section 2, Article 1.10A, Insurance Code, to expand the list of reasons for which the commissioner may issue an emergency cease and desist order.

SECTION 11.98. Amends Section 19(a), Article 20A.19, Insurance Code, to make a conforming change.

SECTION 11.99. Amends Section 1, Article 22.18, Insurance Code, to make conforming changes.

SECTION 11.100. Repealer: Article 3.55-1, Insurance Code.

SECTION 11.101. Amends Article 3.28, Insurance Code, by adding Section 2A, as follows:

Sec. 2A. OPINION OF RESERVES. (a) GENERAL. (1) Requires every life insurance company doing business in this state to annually submit to the board the opinion of an actuary as to whether the reserves and related actuarial items meet certain specified requirements.

(2) Requires the opinion to apply to all business in force.

(3) Provides for the submission of an opinion by a foreign or alien company.

(4) Provides that a person who certifies to an opinion under this section is not liable for damages to a person other than the insurance company covered by the opinion for any act, error, omission, or decision, except in cases of fraud or wilful misconduct.

(5) Provides that a company or person who certifies to an opinion under this section and that fails to comply with or violates this section or rules adopted pursuant to it is subject to disciplinary action.

(6) Requires the preparation of a memorandum to support each opinion.

(7) Provides for the appointment by the commissioner of an actuary if an insurance company fails to provide a memorandum at the request of the commissioner.

(b) ACTUARIAL ANALYSIS OF RESERVES AND ASSETS SUPPORTING SUCH RESERVES. Requires an opinion by the same actuary to be prepared concerning the reserves and related actuarial items of an insurer.

SECTION 11.102. Amends Article 3.28, Insurance Code, by adding Sections 8A and 9A, as follows:

Sec. 8A. Provides for minimum aggregate reserves.

Sec. 9A. Provides for the effect of the opinion on the standard of valuation.

SECTION 11.103. Requires the opinion submitted under Section 2A, Article 3.28, Insurance Code, to be submitted with the annual statement reflecting the valuation of such reserve liabilities for each year ending on or after December 31, 1992.

SECTION 11.104. Amends Article 1.15, Insurance Code, by amending Section 1 and adding Sections 5 through 7, as follows:

Sec. 1. Makes conforming changes.

Sec. 5. Provides that a carrier or agent of a carrier that fails or refuses to comply with this article or rules adopted under it or with a request of the board or commissioner is subject to disciplinary action.

Sec. 6. Requires the board to adopt procedures for filing and adoption of examination reports and for hearings to be held under this article and guidelines governing orders issued under this article.

Sec. 7. Provides that nothing in this article is to be construed to limit the commissioner's authority to use any reports, documents, or information discovered or developed during the course of any examination.

SECTION 11.105. Amends Chapter 21E, Insurance Code, by adding Article 21.49-3b, as follows:

Art. 21.49-3b. JOINT UNDERWRITING ASSOCIATIONS

Sec. 1. SHORT TITLE. Provides the short title of this article.

Sec. 2. DEFINITIONS. Defines "board," "commissioner," "insurer," and "joint underwriting association."

Sec. 3. ACTING WITHOUT LICENSE PROHIBITED. Prohibits an association of insurers from acting as a joint underwriting association in this state unless it holds a license issued under this article.

Sec. 4. APPLICATION. (a) Requires each association of insurers that applies for a license under this article to file a written application on forms prescribed by the commissioner.

(b) Requires the application to include certain information.

(c) Requires the application to be sworn to by at least one officer of the association.

Sec. 5. ISSUANCE OF LICENSE. Requires the commissioner to issue a license to a voluntary unincorporated association of insurers that complies with the requirements of this article.

Sec. 6. LICENSE BY RECIPROCITY. Authorizes the board to waive any of the license requirements for an applicant with a valid license from another state that has substantially equivalent requirements.

Sec. 7. AUTHORITY TO ACT. Provides that a joint underwriting association may act only on behalf of members of the association who are admitted and licensed to do business in this state and may engage in only those activities it is authorized to perform by the members of the association.

Sec. 8. REQUIREMENTS FOR LICENSED ASSOCIATIONS. (a) Requires each association licensed under this article to file a list of the names and addresses of its officers and directors and a list of its members with the application for a renewal license filed under this article. Requires the list to be sworn to by at least one officer of the association.

(b) Requires each association licensed under this article to notify the commissioner of any change in any of the information required to be filed under this article.

Sec. 9. MAINTENANCE OF INFORMATION. (a) Requires each joint underwriting association to maintain at its principal administrative office adequate records of all transactions.

(b) Requires the association to maintain the records.

(c) Provides that the commissioner or the commissioner's designee is entitled to access to those records.

(d) Provides that trade secrets are confidential, with an exception.

Sec. 10. INDEPENDENT AUDITS AND EXAMINATION. Provides for audits and examinations of the books of joint underwriting associations by the board.

Sec. 11. TERM OF LICENSE; RENEWAL. Provides that the term of a license issued under this article is three years, and provides for the renewal of the license.

Sec. 12. FEES. Provides for the payment of a fee not to exceed \$200 at the time of the filing of an application for an original or renewal license.

Sec. 13. DENIAL, REFUSAL, SUSPENSION, OR REVOCATION OF LICENSE. Provides that a license may be denied, refused, suspended, or revoked for certain specified reasons.

Sec. 14. NOTICE; HEARINGS. Provides for notice and hearings before the denial, suspension, or revocation of a license.

Sec. 15. EXEMPTION. Provides that this article does not apply to the transaction of life, health, or accident insurance business.

Sec. 16. DISPOSITION OF FEES. Requires fees collected under this article to be deposited in the state treasury to the credit of the State Board of Insurance operating fund. Pro-

hibits the appropriation of funds from the general revenue fund to administer this article.

Sec. 17. VIOLATIONS; ENFORCEMENT. Provides for the enforcement of this article.

Sec. 18. Provides that a joint underwriting association is not required to hold a license issued under Article 21.49-3b, Insurance Code, before January 1, 1992.

SECTION 11.106. Amends Section 3(a) Article 3.50-2, Insurance Code, to define "serious mental illness."

SECTION 11.107. Amends Section 5(j), Article 3.50-2, Insurance Code, to make a conforming change.

SECTION 11.108. Amends Section 3(a), Article 3.50-3, Insurance Code, to define "serious mental illness."

SECTION 11.109. Amends Section 4A, Article 3.50-3, Insurance Code, to make conforming changes.

SECTION 11.110. Amends Article 3.51-5A, Insurance Code, to define "serious mental illness" and make conforming changes.

SECTION 11.111. Amends Chapter 3E, Insurance Code, by adding Article 3.51-14, as follows:

Art. 3.51-14. MANDATORY PROVISION OF BENEFITS FOR CERTAIN SERIOUS MENTAL ILLNESS.

Sec. 1. DEFINITION. Defines "serious mental illness."

Sec. 2. MANDATORY COVERAGE; EXEMPTION. Requires coverage of serious mental illnesses, with exceptions.

Sec. 3. LEVEL OF COVERAGE. Provides the minimum level of coverage under this article.

SECTION 11.112. Provides the effective date of the previous six sections of this act.

SECTION 11.113. Amends Section 3(a), Article 3.50-2, by amending Subdivisions (2), (4), (5), (11), (16), (17), and (18), and adding Subdivisions (19) through (22), as follows:

Amends the definitions of "annuitant," "department," "employee," "trustee," "basic coverage," and "cafeteria plan."

Adds definitions for "institution of higher education," "The University of Texas System," "The Texas A&M University System," "Texas Tech University," and "University of Houston System."

SECTION 11.114. Amends Article 3.50-2, Insurance Code, by adding Section 3A, to provide that certain institutions of higher education may elect to participate in the Texas Employees Uniform Group Insurance Benefits Program. Requires those institutions to notify the trustee of its decision no later than April 1, 1992.

SECTION 11.115. Amends Section 4B, Article 3.50-2, Insurance Code, by adding Subsection (e), to authorize the trustee to delegate the duties of the executive director under this section to another employee of the ERS and to delegate its duties to hear appeals to the executive director.

SECTION 11.116. Amends Section 18, Article 3.50-2, Insurance Code, to provide for changes in the membership and duties of the Group Benefits Advisory Committee.

SECTION 11.117. Amends Section 830.002, Government Code, by adding Subsection (c), to require the Texas Higher Education Coordinating Board to develop policies, practices, and procedures as necessary to provide greater uniformity in the administration of the retire-

ment annuity insurance program available to employees of Texas state colleges and universities.

SECTION 11.118. Amends Chapter 830A, Government Code, by adding Section 830.006, as follows:

Sec. 830.006. REPORTS FROM INSTITUTIONS. (a) Requires the governing board of each institution of higher education, to annually submit a report to the coordinating board that includes information concerning the number of participants and the amount of contributions.

(b) Requires the governing board of each institution required to file a report under Subsection (a) to keep records, make certifications, and furnish to the coordinating board information and reports.

(c) Requires the coordination board to prepare the report required by Subsection (a) and to maintain the information required by Subsection (b) with respect to its own employees.

SECTION 11.119. Amends Section 2, Article 3.50-3, Insurance Code, to make conforming changes.

SECTION 11.120. Amends Section 3, Article 3.50-3, Insurance Code, to make conforming changes.

SECTION 11.121. Amends Section 4, Article 3.50-3, Insurance Code, to make conforming changes. Authorizes an institution to join with another institution to procure one or more group contracts with any insurance company authorized to do business in this state.

SECTION 11.122. Amends Section 4A, Article 3.50-3, Insurance Code, to make conforming changes.

SECTION 11.123. Amends Sections 5, 7, 8, 13, 14, 15, 15A, 16, and 17, Article 3.50-3, Insurance Code, to make conforming changes.

SECTION 11.124. (a) Repealer: Section 4A, Article 3.50-3, Insurance Code.

(b) Repealer: Sections 4B and 6, Article 3.50-3, Insurance Code.

(c) Repealer: Section 11A, Article 3.50-3, Insurance Code.

ARTICLE 11A.

SECTION 11A.01. Amends Section 2, Article 20A.02, Insurance Code, to amend the definition of "health care."

SECTION 11A.02. Amends Section 2, Article 20A.02, Insurance Code, to amend the definition of "health care services."

SECTION 11A.03. Amends Section 2, Article 20A.02, Insurance Code, to amend the definition of "provider."

SECTION 11A.04. Amends Section 14, Article 20A.14, Insurance Code, by adding Subsection (h), to provide for an annual period in which providers and physicians in the geographic service area of a health maintenance organization may apply to participate in providing health care services or medical care under the terms and conditions established by the HMO for the provision of such services.

SECTION 11A.05. Provides that this article takes effect January 1, 1992. Makes application of this act prospective.

ARTICLE 12. REPEALER

SECTION 12.01. Repealer. Lists laws repealed by this bill.

ARTICLE 13. TRANSITION PROVISIONS; EFFECTIVE DATE; EMERGENCY

SECTION 13.01. Provides that change in name of the agency does not affect or impair actions taken prior to the change in title designations made by this Act.

SECTION 13.02. Entitles a person serving on the State Board of Insurance on the effective date of this Act to serve out his or her term unless otherwise removed.

SECTION 13.03. (a) Provides that Article 21.07-7, Insurance Code, takes effect September 1, 1991. Provides for an exception.

(b) Provides that a person is not required to be licensed as a broker or manager under Article 21.07-7, Insurance Code, until January 1, 1992.

(c) Prohibits an insurer or reinsurer from continuing to use the services of a reinsurance intermediary on or after January 1, 1992, except in compliance with this Act.

SECTION 13.04. (a) Renames the division of consumer protection of the State Board of Insurance as the office of public insurance counsel. Provides that any reference in the law to that division means the office of public insurance counsel.

(b) Renames the division of consumer protection account in the state treasury as the office of public insurance counsel account.

SECTION 13.05. Provides for the prospective application of Article 5 of this Act.

SECTION 13.06. Provides for the prospective application of Article 1.06C, Insurance Code.

SECTION 13.07. Provides for the prospective application of Article 4 of this Act.

SECTION 13.08. Provides that changes to the application of Article 6252-13a, V.T.C.S. and to the participation of State Board of Insurance staff members in rate proceedings apply to rate proceedings before the board commenced on or after January 1, 1992.

SECTION 13.09. Provides for the prospective application of Articles 21.55 and 21.56, Insurance Code.

SECTION 13.10. Requires a policy filed on or after July 1, 1992, to be in plain language.

SECTION 13.11. (a) Provides for prospective application of Article 21.58, Insurance Code, and the amendments made to Article 21.21, Insurance Code.

(b) Provides for prospective application of the amendments made to Articles 1.10 and 1.10A, Insurance Code.

SECTION 13.12. Provides for the application of Article 1.10C, Insurance Code. Requires the board to adopt rules required under that article by January 1, 1992.

SECTION 13.13. Provides for the prospective application of Section 2a, Article 6675a-1 et seq., V.T.C.S.

SECTION 13.14. Provides for the prospective application of Section 1B(b), Article 6701h, V.T.C.S.

SECTION 13.15. Requires the toll-free telephone number required under Article 1.35D, Insurance Code, to be established by January 1, 1992.

SECTION 13.16. Provides requirements regarding filing of the audited financial report under Article 1.15A, Insurance Code.

SECTION 13.17. Provides for the prospective application of Section 15, Article 21.28-C, V.T.C.S., and Section 11.05 to Section 19(1), Article 21.28-D, V.T.C.S., after January 1, 1992.

SECTION 13.18. Requires appropriate members of advisory bodies or members of entities subject to Article 9 to be elected or appointed by October 1, 1991.

SECTION 13.19. Provides for application of the limitation in Section 12(b), Article 1.15A, Insurance Code, on or after September 1, 1993.

SECTION 13.20. Amends Article 21.49-2D, Insurance Code, to provide that the article does not require an insurer doing business in this state on the effective date of this Act, to offer a line or classification of insurance within a line of insurance that the insurer was not offering immediately before the effective date of this Act.

SECTION 13.21. Makes application of the change in law made by this Act to Section 1, Article 7.19-1, Insurance Code, and to Section A, Article 5150, V.T.C.S., prospective.

SECTION 13.22. Makes application of Article 21.79E, Insurance Code, as added by this Act, prospective.

SECTION 13.23. Makes application of Article 24.15, Insurance Code, as amended by this Act, prospective.

SECTION 13.24. Makes application of Article 21.49, Insurance Code, as amended by this Act, prospective.

SECTION 13.25. Makes application of Section 8D, Article 21.49, Insurance Code, as added by this Act, prospective.

SECTION 13.26. Makes application of Sections 9 and 9A, Article 21.49, Insurance Code, as amended by this Act, prospective.

SECTION 13.27. Entitles a person who is serving on the board of directors of the Texas Catastrophe Property Insurance Association on the effective date of this Act to continue to serve until the expiration of that person's terms unless otherwise removed. Requires the board, in filling vacancies on the board of directors of the Texas Catastrophe Property Insurance Association that occur after September 1, 1991, to appoint a member of the general public to fill the first vacancy and a local recording agent to fill the second vacancy. Requires the succeeding vacancies to be filled by the board in a manner that restructures the board of directors in compliance with the requirements of Section 5(g), Article 21.49, Insurance Code, as amended by this Act.

SECTION 13.28. Makes application of Section 8E, Article 21.49, Insurance Code, as added by this Act, and Section 8, Article 21.49, Insurance Code, as amended by this Act, prospective.

SECTION 13.29. Amends Section 10, Chapter 273, Acts of the 71st Legislature, Regular Session, 1989, as follows:

Sec. 10. Authorizes a farm mutual that was engaged in the business of insuring commercial or private passenger motor vehicles on January 1, 1989, to continue to insure motor vehicles until January 1, 1996. Requires this authorization to terminate immediately if there is a change of control of the company as defined in Article 21.49-1, Insurance Code. Authorizes a farm mutual that on January 1, 1989, was operated under, or controlled by a plan or method other than that provided in Section (c) or Section (d) of Article 16.01, to continue under such plan of operation or method of control, as the case may be. Requires the farm mutual to be required to comply with Sections (c) and (d) of Article 16.01, and all other provisions of Chapter 16, Insurance Code, including Section (g) of Article 16.08, on or before January 1, 1996, or immediately on any change of control as defined in Article 21.49-1, Insurance Code.

SECTION 13.30. (a) Effective date: September 1, 1991, except as provided by Subsection (b) of this section.

(b) Provides that Section 11.37 takes effect immediately.

(c) Requires Article 18.23A, Insurance Code, to not apply to policies issued or renewed before September 1, 1992.

SECTION 13.31. Requires Article 21.49-2C to not apply to carriers who have commenced withdrawal from one or more lines of insurance in this state prior to January 1, 1991.

SECTION 13.32. Requires the provisions of S.B. 1, 71st Legislature, Second Called Session, to govern if the provisions of ARTICLE 2 or SECTION 11.03 of this Act conflict with its provisions.

SECTION 13.33. Effective date, Sections 1, 2, and 3, Article 21.52, Insurance Code: September 1, 1991. Makes application prospective.

SECTION 13.34. Provides for the terms of members of the Group Insurance Advisory Committee.

SECTION 13.35. Provides the effective date for coverage of employees of an institution of higher education.

SECTION 13.36. Emergency clause.